TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~304.~~ 186

THE PROPELLER DEAN RICHMOND, NATHANIEL C. WINSLOW, CLAIMANT, APPELLANT,

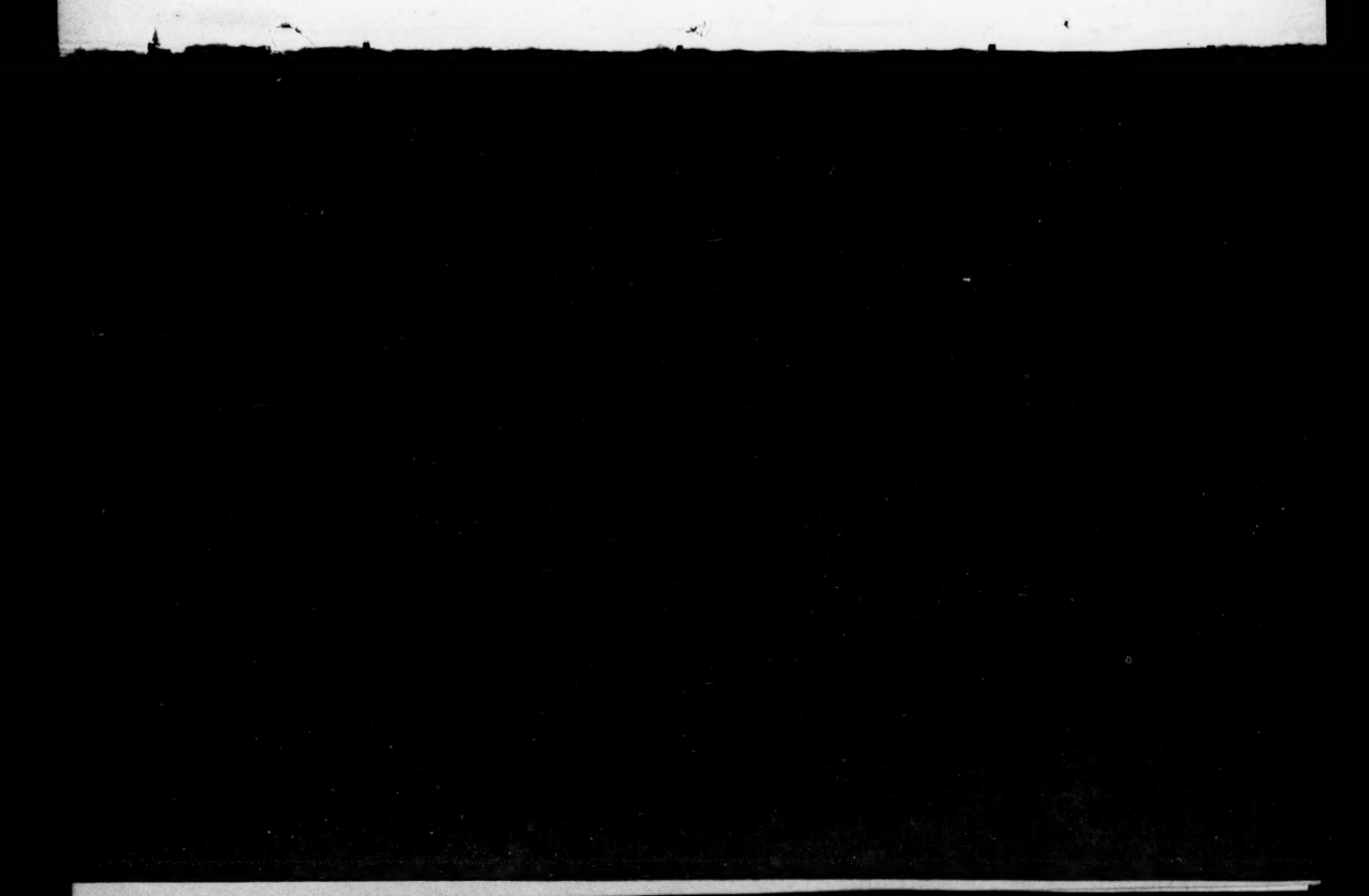
vs.

ELISHA B. DEAN AND JOEL V. TAYLOR.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED DECEMBER 13, 1870.

Dec. 18 71



SUPREME COURT OF THE UNITED STATES.

No. 394.

THE PROPELLER DEAN RICHMOND, NATHANIEL C. WINSLOW, CLAIMANT, APPELLANT,

vs.

ELISHA B. DEAN AND JOEL V. TAYLOR.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

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1 Pleas in the circuit court of the United States of America for the northern district of Illinois, held at the United States court-room, in the city of Chicago, in the district aforesaid, before the Hon. David Davis, one of the justices of the Supreme Court of the United States, presiding judge of said court, on Wednesday, the thirteenth day of July, in the July term of said court, in the year of our Lord one thousand eight hundred and seventy, and of our independence the ninety-fifth year. WILLIAM H. BRADLEY, *Clerk.*

Appeal in admiralty.

ELISHA B. DEAN AND JOEL V. TAYLOR
vs.
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NORTHERN DISTRICT OF ILLINOIS, *ss:*

Be it remembered, that on the fifth day of August, in the year of our Lord one thousand eight hundred and fifty-nine, came Na-
2 than C. Winslow and Hezekiah J. Winslow, claimants of the propeller Dean Richmond, by their proctors, and filed in the office of the clerk of the circuit court of the United States for the northern district of Illinois, at Chicago, in said district, a transcript of a record from the district court of the United States for the northern district of Illinois, in the aforesaid entitled cause, which said transcript is in the words and figures following, to wit:

3 Pleas in the district court of the United States for the northern district of Illinois, held at the United States court-room, in the city of Chicago, in the district aforesaid, before the Honorable Thomas Drummond, judge of said district court, on Monday, the nineteenth day of July, in the July term of said court, in the year of our Lord one thousand eight hundred and sixty-nine, and of our independence the ninety-fourth year. W'M H. BRADLEY, *Clerk.*

ELISHA B. DEAN AND JOEL V. TAYLOR
vs.
THE PROPELLER DEAN RICHMOND. } 2165. Libel.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Be it remembered, that on the eleventh day of October, in the year of our Lord one thousand eight hundred and sixty-six, came Elisha B. Dean and Joel V. Taylor, libelants, by Messrs. Waite, Towne, & Clark, their proctors, and filed in the office of the clerk of the district
4 court of the United States for the northern district of Illinois, at Chicago, in said district, their libel against the propeller Dean Richmond, respondent, which said libel is in the words and figures following, to wit:

Libel.

UNITED STATES OF AMERICA,
Northern District of Illinois:

United States district court, of the November term, A. D. 1866. In admiralty.

ELISHA B. DEAN AND JOEL V. TAYLOR
vs.
PROPELLER DEAN RICHMOND.

Elisha B. Dean and Joel V. Taylor, owners of the schooner A. Baensch,

hereinafter mentioned, exhibit this their libel against the propeller Dean Richmond, whereof George W. Brett is, or lately was, master, now lying in the port of Chicago, in the district aforesaid, and within the admiralty and maritime jurisdiction of this honorable court, her engines, machinery, boats, tackle, apparel, and furniture, and against all persons lawfully intervening for their interest therein, in a cause of collision, civil and maritime, and thereupon the said libellants do allege and articulate as follows, to wit:

5 First. That said schooner A. Baensch is a vessel of more than twenty tons burthen, to wit, of the burthen of one hundred and thirty tons, or thereabouts, and at the time when the cause of action hereinafter set forth arose, was enrolled and licensed for the coasting trade, and was employed in the business of commerce and navigation between points and places in different States and Territories of the United States, and upon the lakes and navigable waters connecting the lakes.

Second. That on the eleventh day of September, A. D. 1866, the said schooner A. Baensch, being light, staunch, and well manned and provided, sailed from the port of Chicago, in the northern district of Illinois, ladened with a small amount of merchandise, bound on a voyage to the port of Carlton, in the State of Wisconsin.

Third. That during said voyage, to wit, about 10 o'clock p. m. of said 11th day of September, A. D. 1866, when not far from Grosse Point, the wind blowing a fresh breeze from west to west-south-west in gusts, the schooner heading about north-half-west, with her mainsail, foresail, forestay-sail, jib, and flying-jib set, and jibe top-sail up, and having

6 all her signal-lights properly set and burning, with a proper lookout, and competent man at the helm, the lookout of the schooner Baensch discovered the lights of a steamer about a point on the port bow. Those in charge of the Baensch kept her course, which course she had been steering for some time previous to discovering the light, and continued so to keep the schooner on her course up to the time of the collision, as it was their duty to do. That said steamer continued to shape her course as though she would pass the schooner to the windward, but when nearly up with the schooner, she apparently changed her course, and ran into the said schooner Baensch with great force and violence, striking her at the fore-rigging on the port side, and so greatly injured the said schooner that she began immediately to fill with water, and almost immediately went down, and she, with her cargo, became a total loss. The crew of the said schooner Baensch with difficulty saved their lives by climbing on board the propeller.

Fourth. That said propeller by which said damage was done proved to be the Dean Richmond, bound on a voyage from Buffalo to Chicago, and under the command of George W. Britt, and was of about

7 fifteen hundred tons burthen. That when the lights, which afterwards proved to be those of the propeller Dean Richmond, were first discovered, and for a long time previous thereto, by those in charge of the said schooner Baensch, the Baensch carried her signal-lights properly displayed, and were properly trimmed and burning brightly. Said lights were a green light on the starboard side, and a red light on her port side, which were the proper lights for said schooner to carry, and in their proper positions, and could have readily been seen by those in charge of the Dean Richmond if they had kept a proper lookout, and must have been seen in season to have avoided the collision and to have enabled the Dean Richmond to have kept out of the way of the schooner Baensch, as it was her duty to have done.

Fifth. That if the propeller Dean Richmond had had a proper look-out, the signal-lights of the Baensch must have been seen by those in charge of the propeller, and the collision avoided.

Sixth. That when those in charge of the propeller Dean Richmond saw the lights of the Baensch, they could have avoided the collision if they had attended to their duty in the premises.

8 Seventh. That at the time of the afore-mentioned loss of the schooner Baensch, she had on board merchandise to the value of four hundred and twenty-two dollars and eighty-two cents. That said schooner Baensch, her tackle, apparel, boats, and furniture, were worth or were of the value of ten thousand five hundred dollars, or thereabouts. That said vessel, her apparel, tackle, boats, furniture, and cargo, was the property of your libelants, and that by reason of the careless, negligent, and unskilful management of the said propeller Dean Richmond, and the collision of said propeller with the said schooner Baensch thereby occasioned, the said schooner Baensch, her tackle, apparel, and furniture, has been totally lost. That at the time of the collision your libelants had an insurance on said vessel in the sum of six thousand dollars in the Mutual Insurance Company of Buffalo, and said insurance company had paid your libelants the said sum of six thousand dollars so insured, and your libelants have abandoned the interest in said vessel so insured. That on said vessel the said Mutual Insurance Company of Buffalo have a claim against the said propeller Dean Richmond for their share of the loss, should they choose to intervene

9 for the same. That by reason of the careless, negligent, improper, and unskillful management of said propeller Dean Richmond, your libelants have suffered damages to the amount of ten thousand nine hundred and twenty-two and $\frac{82}{100}$ dollars, six thousand dollars of which sum has been paid to them as aforesaid by said insurance company.

Eighth. That at the time when the danger of the collision between the said propeller and the schooner Baensch was first perceived by those in charge of the Baensch, it was impossible for said schooner to get out of the way of the propeller Dean Richmond, nor were there any means that could with propriety have been resorted to by those in charge of the schooner Baensch to avoid the collision, and that the officers and crew of the schooner Baensch were guilty of no negligence or improper conduct in the premises.

Ninth. That all and singular the premises are true.

Wherefore the libelants pray that process in due form of law may issue against the propeller Dean Richmond, her engines, tackle, apparel, boats, and furniture, and that this honorable court will pro-

10 nounce for the damages aforesaid and decree the same to be paid with costs, and for such other and further relief and redress as to right and justice may appertain, and the court is competent to give in the premises.

JOEL V. TAYLOR,
One of said libelant.

WAITE, TOWNE & CLARKE,
Lib'ts Proctors.

Subscribed & sworn to before me this 11th day of Oct., 1866.
E. A. DRUMMOND,
U. S. Com'r.

(Endorsed:) Filed Oct. 11, 1866. W'm H. Bradley, cl'k.

Thereupon, on the same day, to wit, the eleventh day of October, A. D. 1866, a monition issued out of said clerk's office against said respondent in the above-entitled cause, which said monition, together with the return of the marshal thereon, and the proof of notice by publication, and the bond given the marshal for the release of the respondent returned therewith, are respectively in the words and figures following, to wit:

Monition.

THE UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

11 The United States of America to the marshal of the northern district of Illinois, greeting:

Whereas a libel hath been filed in the district court of the United States in and for the northern district of Illinois on the 11th day of October, in the year of our Lord one thousand eight hundred and sixty-six, by Elisha B. Dean and Joel V. Taylor, owners of the schooner A. Beansch, against the propeller Dean Richmond, her engines, machinery, boats, tackle, apparel, and furniture, for reasons and causes in said libel mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons having, or pretending to have any right, title, or interest therein, may be cited to appear and answer all and singular the matters in said libel articulately propounded; and that this court would be pleased to pronounce for the sum of ten thousand nine hundred and twenty-two dollars and eighty-two cents, ($10,922 82,) the damages alleged in said libel, besides costs of suit:

You are therefore commanded to attach the said propeller Dean Richmond, her engine, machinery, boats, tackle, apparel, and furniture,
11 and to detain the same in your custody until the further order of this court respecting the same, and to give due notice, by publication in some daily newspaper printed in the city of Chicago for fourteen days previous to the day of trial, and by notice posted up in the most public manner for the space of fourteen days, at or near the place of trial, of such seizure and libel, to all persons claiming the said propeller, her engine, machinery, boats, takle, apparel, and furniture, or knowing or having anything to say why this court should not pronounce against the same according to the prayer of the said libel, *and* that they be and appear before the said court to be held in and for the northern district of Illinois at the United States court-room, in the city of Chicago, in said district, on the first Monday in November next, if that be a day of jurisdiction; if not, then on the first day of jurisdiction thereafter, at 10 o'clock in the forenoon of that day, then and there to interpose a claim for the same, and to make their allegations in that behalf. And what you shall have done in the premises do you then and there make return, together with this writ.

Witness the Honorable Thomas Drummond, judge of the said
13 court this 11th day of October, in the year of our Lord one thousand eight hundred and sixty-six, and of our independence the 91st year.

[SEAL.] W'M H. BRADLEY, *Clerk.*

[50-ct. rev. stamp, conceled.]

Under and by virtue of the within writ, I took the propeller Dean Richmond, named therein, her engines, machinery, boats, tackle, ap-

parel, and furniture into my custody on the 11th day of October, A. D. 1866, and released the same from such custody on the 13th day of October, in the year aforesaid, the claimants thereof having, on said last above-mentioned day, delivered to me a bond, duly executed and approved, which is herewith returned into court. I have given due notice by publication and by posting up, according to the command of said writ.

Dated November 5th, 1866.

J. R. JONES,
U. S. Marshal.
By A. B. COTES,
Deputy.

(Endorsed:) Filed this 6th day of November, A. D. 1866. W'm H. Bradley, cl'k.

14 *Proof of publication.*

Public notice is hereby given that, on the 11th day of October, A. D. 1866, a monition issued out of the clerk's office of the district court of the United States for the northern district of Illinois, in a cause civil and maritime, wherein Elisha B. Dean and Joel V. Taylor, owners of the schooner A. Baensch, are libelants, against the propeller Dean Richmond, her engines, machinery, tackle, apparel, and furniture, for the sum of $10,922 82, by virtue of which I took the same into custody. The said monition is returnable on the first Monday in November, A. D. 1866, when, if that should be a day of jurisdiction, (or if not, then on the first day of jurisdiction thereafter,) a hearing will be had of the cause. All persons interested in the said propeller Dean Richmond, her engine, machinery, boats, tackle, apparel, or furniture are required then to interpose their claim, if any they have, otherwise the same will be pronounced against for the debt and costs, as prayed for in the libel.

Chicago, October 19th, 1866.

J. R. JONES,
U. S. Marshal Northern District of Illinois.
WAITE, TOWNE & CLARKE,
Proctors for Libilants.

15 This certifies that a notice, of which the annexed printed slip is a true copy, was published in every successive publication or number of the Chicago Daily Evening Journal, a newspaper printed and published daily, except Sundays, in the city of Chicago, in the county of Cook, in the State of Illinois, from and including the 19th day of October, 1866, to and including the 3rd day of November, 1866, the same having been published as aforesaid fourteen times, and the date of the first paper containing the same being the 19th day of October, 1866, and the date of the last paper containing the same being the 3rd day of November, 1866.

Dated at Chicago, this 5th day of November, A. D. 1866.

C. H. WILSON & CO.,
Publishers of the Chicago Daily Evening Journal.

[5-cent stamp, cancelled.]

(Endorsed:) Filed Nov'b'r 6th, 1866. W'm H. Bradley, cl'k.

Bond for release.

Know all men by these presents that Nathan C. Winslow and Hezekiah J. Winslow, of Buffalo, New York, as principals, and Wiley M. Egan, of Chicago, county of Cook, and State of Illinois, as sure-
16 ties, are held and firmly bound unto Elisha B. Dean and Joel V. Taylor, in the penal sum of twenty-one thousand eight hundred and forty-five dollars and sixty-four cents, to be paid unto the said Elisha B. Dean and Joel V. Taylor, which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated at Chicago, the thirteenth day of October, in the year of our Lord one thousand eight hundred and sixty-six.

Whereas in a certain cause of collision, civil and maritime, moved and prosecuted in the district court of the United States of America for the northern district of Illinois, on behalf of the said Elisha B. Dean and Joel V. Taylor, owners of the schooner A. Baensch, against the propeller Dean Richmond, her engines, machinery, boats, tackle, apparel, and furniture, a warrant of arrest has been issued out of the said court against the said propeller Dean Richmond, her engines, machinery, boats, tackle, apparel, and furniture; in virtue of which said warrant the said propeller Dean Richmond, her engines, machinery, boats, tackle, apparel, and furniture, have been arrested by Augustus B. Cotes, one of the
17 deputies of the marshal of the United States for the said northern district of Illinois, and are now in the custody of the said marshal.

Now, therefore, the condition of this obligation is such, that if the above-bounden Nathan C. Winslow and Hezekiah J. Winslow, the claimants of said propeller Dean Richmond, her engines, machinery, boats, tackle, apparel, and furniture, shall well and truly abide and answer the decree of said court in the aforesaid cause, then this obligation shall be void; otherwise it shall remain in full force and virtue.

N. C. WINSLOW. [SEAL.]
By W. M. EGAN,
His At'y-in-fact.

[SEAL.]

H. J. WINSLOW. [SEAL.]
By W. M. EGAN,
His Attorney-in-fact.

Approved by—

WAITE, TOWNE, & CLARKE,
Libelants' Proctors.

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

Wiley M. Egan, being duly sworn, depose' and say' that I am a resident of the northern district of Illinois, and that I own property in said district, subject to execution, worth thirty thousand dollars, over and above all just debts and liabilities.
18 WILEY M. EGAN.

Sworn to and subscribed before me this 13th day of October, A. D. 1866.

[SEAL.] ANDREW T. SHERMAN,
Notary Public.

(Endorsed:) Filed November 6th, 1866. W. H. Bradley, cl'k.

On this day, to wit, the fifth day of November, in the October term, A. D. 1866, of said court, in the record of the proceedings thereof in the above-entitled cause, is the following entry, to wit:

Order extending time to answer.

ELISHA B. DEAN AND JOEL V. TAYLOR
vs.
PROPELLER DEAN RICHMOND. } Libel.

On motion of the proctor for the defendant, the time in which the claimant is required to answer is extended ten days.

On this day, to wit, the fourteenth day of November, A. D. 1866, came Nathan C. Winslow and Hezekiah J. Winslow, by their proctor, R. Rae, esq., and filed in said clerk's office their answer in the above-en-
19 titled cause, and also, at the same time, filed claimants' stipulation; which said answer and stipulation are respectively in the words and figures following, to wit:

Answer.

In the district court of the United States for the northern district of Illinois. In admiralty.

To the Honorable Thomas Drummond, district judge, &c., &c.:

The answer of Nathan C. Winslow and Hezekiah J. Winslow to the libel of Elisha B. Dean and Joel E. Taylor against the propeller Dean Richmond, her tackle, &c., and hereupon the said Nathan C. Winslow and Hezekiah J. Winslow, respondents, answer and allege as follows:

First. That the said respondents are and were, during all the times in said libel mentioned, the owners of the said propeller, her engines, machinery, boats, tackle, apparel, and furniture.

Second. The said respondents say they have no knowledge or information, save such as is derived from hearsay or the said libel, as to any of the allegations in the said libel contained, except such as are hereinafter specifically admitted to be true, and they deny each and every
20 allegation in the said libel contained, except such as are hereinafter specifically admitted to be true, and demand strict proof of each and all the *the* allegations in said lebel contained, except such as are hereinafter specifically admitted to be true.

Third. The said respondents specifically admit and allege that on the 11th of September, 1866, the said propeller Dean Richmond, of the burthen of about fifteen hundred tons, and she then being commanded by Julius W. Brett, and being then tight, staunch, and strong, well officered, manned, equipped, and provided, was upon Lake Michigan in the pursuit of her lawful business, bound from Milwaukee to Chicago, and being engaged in the part performance of a voyage from Buffalo to Chicago; and that before the time when the green light, which afterwards proved to be upon the schooner A. Baensch, (a schooner of twenty tons burthen and upward,) was first made from the propeller, as hereinafter appears, and from thence down to the time of the collision hereinafter mentioned, the wind was fresh from about the southwest, and the propeller carried and displayed good and proper lights, as provided by law, having at the foremast head a bright white light, on the starboard side a green light, on the port side a red light, and had good and sufficient lookout, and in all respects was properly officered, manned, and
21 equipped. The night had, before the said green light was first

made, been somewhat thick, but from the time the said light was so made there was no fog, and a few stars were visible. At about ten o'clock in the evening of the said day the said propeller was proceeding in her aforesaid business upon the said lake, upon a course about south by east. At this time and some considerable time before the collision, but how long the respondents are unable to state, the green light aforesaid was made, from and on board the propeller, bearing about half a point on the propeller's port bow, and distant apparently more than three miles. A short time after the green light was so made, the propeller was kept off a point, and her head was brought about south southeast, and the said green light then bore about half a point on the propeller's starboard bow. Soon after the propeller was kept off more, and the green light was opened still more upon the propeller's starboard bow; and the green light continued to open still more upon the propeller's starboard bow while the said schooner was still at a considerable distance off, (and as near as the respondents can state the same, a
22 distance apparently exceeding a mile,) the two signal-lights of the schooner were shown to and seen on board of the propeller; and soon after the green light of the schooner only could be seen on board the propeller, and the schooner again soon after exhibited both lights, and then only the green; and soon once more both lights, and then again only the green, to the propeller, all bearing off the propeller's starboard bow. The vessels were still considerable distance apart (but how far the respondents are unable to state) when the engines of the propeller were stopped, and the schooner showing to the propeller then only the schooner's red light bearing off the propeller's starboard bow, the starboard engine of the propeller was backed, and was continued backing until the collision which happened shortly after, (and which is the same collision in said libel mentioned,) the propeller striking the schooner upon or near (and upon the port side) the schooner's port bow. That at and after the first making of the green light as aforesaid, and from thence down to the time of the collision, there was one or more vessels to the leeward of the schooner, and one or more vessels to the windward of the schooner, and that after the said green light was so
23 first made, and after the lights of the propeller were made from the schooner, the schooner did not keep her course, but changed the same so as to cross the course of the propeller, and was so crossing the course of the propeller when the collision happened; and that the collision happened without any negligence, unskillfulness, fault, want of care on the part of the propeller or any one on board of her, and entirely from and on account of the faults, negligence, unskillfulness, and want of care on the part of the schooner and those on board of her, and more especially on account and by reason of her not keeping her course. The schooner sunk soon after the collision, and her crew came on board the propeller. And hereupon the said respondents pray that the said libel be dismissed, with costs, and that said respondents may have such further or other relief in the premises as may be meet.

NATHAN C. WINSLOW.
HEZEKIAH J. WINSLOW.

ROB'T RAE, *Proctor.*
Advocate.

24 UNITED STATES OF AMERICA,
Northern District of New York, ss:

On this 10th day of November, 1866, personally appeared before me

Nathan C. Winslow and Hezekiah J. Winslow, the above-named respondents, and made oath that the foregoing answer is true, according to their knowledge, information, and belief.

[SEAL.] GEO. GORHAM,
United States Commissioner, Northern District of New York.

(Endorsed:) Filed Nov. 14th, 1866. W'm H. Bradley, cl'k.

Claimant's stipulation.

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

District court, term, A. D. 18 .

Whereas a libel was filed in this court on the day of , A. D. 1866, by Elisha B. Dean and Joel E. Taylor against The Propeller Dean Richmond, boats, tackle, apparel, and furniture, for the reasons and causes in the said libel mentioned; and whereas a claim has been filed in the said cause by Nathan C. Winslow and Hezekiah J. Winslow, and the said Winslow and R. Rae, surety, the parties hereto hereby consenting and agreeing that in case of default or contumacy on the part
25 of the claimant, or their surety, execution may issue against their goods, chattels, and lands for the sum of two hundred and fifty dollars: Now, therefore, it is hereby stipulated and agreed for the benefit of whom it may concern, that the stipulators undersigned shall be and are bound in the sum of two hundred and fifty dollars, conditioned that the claimant above named shall pay all such costs as shall be awarded against them by this court, or in case of appeal by the appellate court.

NATHAN C. WINSLOW and
HEZEKIAH J. WINSLOW,
By R. RAE, *Att'y Rep't.*
R. RAE.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

R. Rae, party to the above stipulation, being duly sworn, depose' and says that he resides in the northern district of Illinois, and is worth the sum of five hundred dollars over and above all his debts and liabilities.

R. RAE.

(Endorsed:) Filed Nov. 14th, A. D. 1866. W'm H. Bradley, cl'k.

26 On this day, to wit, the seventeenth day of December, A. D. 1866, came The Mutual Insurance Company of Buffalo, by Messrs. Waite & Clarke, their proctors, and filed in said clerk's office their intervening claim in the above-entitled cause, which said claim is in the words and figures following, to wit:

Intervening claim of Mutual Ins. Co. of Buffalo.

U. S. district court. In admiralty.

UNITED STATES OF AMERICA,
Northern District of Illinois:

To the Honorable Thomas Drummond, judge of the district court of the United States within and for the northern district of Illinois:

Your petitioners, The Mutual Insurance Company of Buffalo, New

York, represents unto your honor that, on the day of , A. D. 1866, Elisha B. Dean & Joel V. Taylor filed in this honorable court a libel in rem. against The Propeller Dean Richmond, and her engines, tackle, apparel, and furniture, in a cause of collision. That said libel, among other things, set forth that the libelants were owners of the schooner A. Baensch, her tackle, apparel, and furniture, and that said schooner
27 A. Baensch had been sunk by a collision with the propeller Dean Richmond, and that said collision resulted from the negligence and improper conduct of those in charge of said propeller Dean Richmond, and asking reparation for said loss of said schooner A. Baensch. They further set forth in said libel that said damage to said libelants by reason of the loss of said schooner was ten thousand five hundred dollars; in addition they had lost the cargo, valued at four hundred and twenty-two dollars and eighty-two cents. That the libelants had an insurance on said schooner of six thousand dollars in the company of your petitioners. They further set forth that your petitioners have paid the said sum of six thousand dollars, and your petitioners had a claim against said propeller Dean Richmond for the interest in said vessel so insured. They further set forth that in and by said libel they could and were allowed, if they chose so to do, to intervene for the amount so paid by them for the insurance on said schooner A. Baensch, and to which libel they refer for greater certainty, and ask that the same may be made part of this their petition.

They further represent unto your honor that Nathan C. Winslow & Hezekiah J. Winslow have filed their claim, according to the rules
28 of admiralty in such cases, as the owners of the said propeller Dean Richmond, and have filed their answer to said libel, and said suit is still pending and undisposed of. These petitioners represent unto your honor that they are the Mutual Insurance Company of Buffalo; that they had an insurance on the hull, &c., of said schooner A. Baensch, and that they have paid the sum of six thousand dollars as in said libel alleged. They, therefore, ask of your honor to be permitted to intervene for their interest in said claim in said libel contained, for the loss of said schooner, and that they may be made co-libelants with said Dean & Taylor, and that your honor would decree to them said sum so paid by them, and for such other and further relief as may be according to the usage and practice of courts of admiralty; and they will every pray.

By WAITE & CLARKE,
Their Proctors.

(Endorsed:) Filed Dec'b. 17th, 1866. W'm H. Bradley, cl'k.

On this day, to wit, the fifteenth day of July, A. D. 1868, came the claimants, by Rob't Rae, their proctor, who files in said clerk's office their plea to jurisdiction, and their request for trial by jury in the
29 above-entitled cause, which said plea and request are in the words and figures following, to wit:

Plea to jurisdiction.

U. S. dis. court, N. dist. of Ill's. In admiralty.

ELISHA B. DEAN & JOEL E. TAYLOR
vs.
PROPELLER DEAN RICHMOND.

And now, this 15th day of July, A. D. 1868, comes the claimants of the

propeller Dean Richmond, by their proctor, Robert Rae, and says the court ought not to have or take jurisdiction of the facts put in issue in this court, because the said claimant has required that said facts put in issue in said cause shall be tried by a jury, according to the act of Congress in such case made and provided, and of this they pray judgment of the court.

ROB'T RAE,
Proctor for Libelant.

(Endorsed:) Filed July 15th, 1868. W'm H. Bradley, c'l'k.

Request of respondents.

U. S. dis. court, N. dis. of Ill's. In admiralty.

DEAN & TAYLOR,
v.
PROP. DEAN RICHMOND.

And now comes the claimant, by Rae & Mitchell, proctors for
30 the propeller Dean Richmond, and asks the court that the facts in issue in said cause be tried by a jury, as provided by the statute in such case made a provided.

RAE & MITCHELL,
Proctors for Propeller Dean Richmond.

(Endorsed:) Filed July 15th, 1868. W. H. Bradley, cl'k.

On this day, to wit, the fifteenth day of July, in the July term, A. D. 1868, of said court, in the record of the proceedings thereof in the above-entitled cause, is the following entry, to wit:

Order setting for hearing.

ELISHA B. DEAN AND JOEL V. TAYLOR,
vs.
THE PROPELLER DEAN RICHMOND, &c. } Libel.

Now come the parties, by their proctors, and the respondent, by its proctor, moves the court for a jury, which motion is overruled by the court, and the respondent, by its proctor, files a plea to the jurisdiction of the court, which is also overruled, and thereupon said cause is set down for hearing upon the pleadings, proofs, and exhibits filed; and after hearing the arguments of counsel the court takes the same under advisement.

31 On this day, to wit, the nineteenth day of July, in the July term, A. D. 1869, of said court, in the record of the proceedings thereof in the above-entitled cause, is the following entry, to wit:

Decree.

ELISHA B. DEAN AND JOEL V. TAYLOR,
vs.
THE PROPELLER DEAN RICHMOND. } Libel.

The court having considered and being now fully advised upon the

matters heretofore submitted, herein finds the propeller in fault, and finds the damages sustained by the libelants to be the sum of eleven thousand dollars, and the Buffalo Mutual Insurance Company having filed their petition herein, it is ordered by the court that said company be subrogated to the rights of the libelants herein to the amount of six thousand dollars, and interest at the rate of six per cent. per annum from the date of the filing of their petition, to wit, the seventeenth day of December, A. D. 1866, amounting to the sum of nine hundred and thirty dollars, amounting, principal and interest, to the sum of six thousand nine hundred and thirty dollars. It is thereupon considered by
32 the court that the respondent pay to the libelants herein the sum of four thousand and seventy dollars, part and parcel of said decree, and to the said Buffalo Mutual Insurance Company the said sum of six thousand nine hundred and thirty dollars, the remainder of said decree for damages, together with the costs, to be taxed.

On motion of the libelants by their proctors—

It is ordered by the court that a summary judgment be, and the same is accordingly hereby, entered against Nathan C. Winslow and Hezekiah J. Winslow, principals, and Wiley M. Egan, surety, in the sum of twenty-one thousand eight hundred and forty-five dollars and sixty-two cents, the amount of the stipulation given the marshal on the arrest of the respondent, and that the libelants have execution therefor, to be discharged and satisfied upon the marshal's making thereof the amount of the decree for damages herein, interest thereon, and costs.

And thereupon the respondents, by its proctors, prays an appeal to the circuit court.

LIBELANTS' PROOF.

Depositions taken before David B. Lyman, a notary public, at Chicago, Illinois, in said district, on the 25th day of November, A. D. 1867, on the part of the libelants.

33 *Deposition of Fred'k Haines.*

My name is FREDERICK HAINES; I am a sailor; my age is 44; I reside in Chicago; I have been a sailor about 30 years.

2. Q. Have you in the last 5 years had any experience in the value of vessel property in Chicago, and if so, what?

A. Yes, sir; I have. I have owned, and bought, and sold vessels within 9 or 10 years at Chicago.

3. Q. Do you know the schooner A. Baensch? If so, state how long you have known her, and your means of knowledge.

A. I do know her. I have known her ever since she came out; when she first came out she used to carry some cargoes for me; since that I have seen her more or less every season through the season. The second year after she came out she was owned in Milwaukee by Mr. Pfiester; he wanted to sell her to me, and offered her for $13,000. He then made a proposition that he would take $12,500, with half cash. We did not come to any bargain; I have not seen the vessel and examined her since thoroughly.

(The foregoing answer objected to by Mr. Mitchell.)

4. Q. Did or did you not see her frequently during the season of 1866, going on board of her?

34 A. I saw her frequently, but I did not examine her.

5. Q. State whether or not you knew her value in Chicago, on the 11th of Sept., 1866; & if so, state what it was.

A. I should judge, the way vessel property was at that time, that she was worth $9,000.

6. Q. Did you mean the cash value at $9,000?

A. I do.

7. Q. Was that usual way at which vessels were sold here then, all cash?

(Objected to.)

A. No, sir.

8. Q. State what was her value at that time on such terms as vessels were usually sold at that time.

A. Perhaps an addition of $500.

9. Q. State whether or not, in your opinion, she was worth at that time, in Chicago, as vessels were usually sold then, $9,500.

A. I think she was.

Cross-ex.:

1. X-q. How old a vessel was the Baensch in Sept., 1866?

A. I think she was five or six years old.

35 2. X-q. How did the Baensch compare with the S. G. Andrews as to size & value?

(Objected to as incompetent.)

You are the owner of the Andrews, are you not?

A. I am the owner of the Andrews. The Andrews was better in some respects for carrying but not quite as good in age as the Baensch. The Andrews was sold for $10,500. She had a carrying capacity from 2,000 to 3,000 bushels more of grain than the Baensch.

3. X-q. When was she sold for $10,500?

A. In 1866.

4. X-q. What valuation has just been put upon the Andrews, (objected to as immaterial,) by appraisers since she has been repaired?

A. $5,500.

5. X-q. Did not 2 appraisers put her value at $4,500, (objected to as immaterial,) within the last month?

A. They did.

6. X-q. You say you didn't examine the Baensch during the year 1866; you don't know then what her condition was at that time?

A. I didn't bore her and make an examination as when called

36 upon for that purpose. I went on board, saw her canvass, and *and* spars, and knew they were in good condition.

7. X-q. How many vessels have you bought and sold within the last 2 years.

A. I bought one and sold one.

Re-direct:

1. Q. Still you have seen vessels bought and sold frequently in the Chicago market during that time, have you not?

(Objected to.)

A. Yes, sir.

2. Q. State whether or not you went on board of the B'en'ch frequently during that season of 1866?

A. I have laid alongside of her and went over her, across her decks and noticed her in that way. I did not examine her particularly.

3. Q. From what you saw of her did or did she not seem to be in good running condition?

(Objected to.)

A. She looked so to me as if she was in good condition.

4. Q. State whether vessels like the B'en'ch were higher in 1866 than in 1864 & 1865 & 1867; and if you say higher, how much higher.

37 A. I should judge about 30 per cent. higher.

5. Q. State whether or not, from what you saw of the B'en'ch in 1866, she seemed to be in good running condition as when she first came out, making proper allowance for her age.

A. I should think she was.

Re-cross:

1. X-q. What allowance would you make for her age?

A. If a vessel came out new in 1860, and business was good, she would hold her value probably in advance over her cost. If after years the vessel was kept up, even if business was dull, she would depreciate, as it has been this year, 1867.

2. X-q. You take the age of a vessel into consideration, do you?

A. If a vessel is kept up—I mean grain-vessels—to a standard, they will not depreciate; unless business gets dull and nothing for them to do, they will depreciate in value.

Re-direct:

1. Q. When did the B'en'ch come out?

A. In 1859 or 1860.

2. Q. State whether vessel property was higher or lower in

38 Chicago in 1866 than in 1859 and 1860; & if higher, how much?

A. I should judge that vessels like the B'en'ch were 30 or 40 per cent. higher in 1866 than in 1859 or 1860.

Re-cross:

1. X-q. How many vessels did you buy or sell in 1866?

A. I bought one in 1866, sold her in 1867, and bought another in 1867.

FREDERICK HAINES.

Deposition of E. M. Portch.

My age is 44; I live in Chicago; I am a vessel-owner; I have lived in Chicago about 30 years; I have been a vessel-owner since about 1846 or 1847; I have been steadily in the business since 1860.

2. Q. Were or were you not acquainted with the value of vessels in September, 1866?

A. I was.

3. Q. Were you or were you not acquainted with the schooner A. B'en'ch? If so, state your means of knowledge.

A. Yes, sir; I was acquainted with her; I examined her in 1864.

4. Q. Did you examine her at any other time?

39 A. I have been on her pretty much every trip during the summer of 1866.

5. Q. State what, in your opinion, was the value of said schooner on the 11th day of Sept., 1866, in Chicago.

A. She was worth $9,500 or $10,000.

Cross-ex.:

1. X-q. Why did not you purchase her at the time you went no board?

A. We could not agree.

2. X-q. How much did they ask for her?

A. $7,500.

3. X-q. What did you offer for her then?
A. I did not make any offer; they wanted all cash, and I could not purchase.
4. X-q. How old was she in 1864?
A. I think 4 or 5 years old.
5. X-q. Are you in the habit of buying and selling vessels?
A. I have bought and sold some since 1864.
6. X-q. Have you bought any since 1866?
A. Yes, sir.
7. X-q. How many?
A. One in March, 1867; I sold one.
8. X-q. How many did you buy and sell during 1866?
A. I bought two and sold one.
40 9. X-q. How much were they worth?
A. I sold one on the beach at $2,500; I sold the vessel in 1867 for $7,300.

Re-direct:

1. Q. Were vessels of the description of the Baen'ch worth more or less in 1866 than in 1864?
A. They were worth more.
2. Q. Was not the B'en'ch repaired after you saw her in 1864 with a view to purchase?
A. Yes, sir.

Re-cross:

1. X-q. How repaired, and what for?
A. She was dismasted, and the repairs were on account of damages received in a collision.
2. X-q. The repairs were simply to put her in the same condition as before the collision?
A. Yes, sir, and a good deal better.
3. X-q. It don't do a vessel any particular good to have a collision?
A. No; unless you have old traps.
4. X-q. You want to get rid of? Was the hull injured?
A. I think not materially.
41 5. X-q. Did you examine?
Not minutely.

Re-direct:

1. Q. How much more was the B'en'ch worth in 1866 than in 1864?
A. She was worth about $2,500 more; I would give that more for her.

Re-cross:

1. X-q. Then she was worth $2,500 more on account of the new repairs?
A. On account of that, and the rise in vessel property, which was 30 per cent.
2. X-q. Then she was not worth $2,500 more merely on account of repairs?
A. I don't know as it was; I am not a practical vessel-builder.

EDWARD M. PORTCH.

Deposition of James R. Cleghorn.

My name is James R. Cleghorn; I was captain of and on board of the B'en'ch when she was lost.

2. Q. Did she or not have any merchandize on board of her when she was so lost? If so, examine the bills marked Exhibit A, B, C, & D, and state whether the merchandize therein stated was on
42 board of the B'en'ch when so lost; and if so, whether it was lost with her?

A. Yes, sir; such merchandize was on board of the B'en'ch when she was lost, and was lost with her.

3. Q. State whether or not, at that time, she had on board of her 26 rolls of cotton batting and one opera-glass; if so, state whether the same was so lost; and state, if you know, the value of the opera-glass.

A. Yes, sir; those goods were on board the B'en'ch, and were lost with her; the opera-glass was worth $40 or $45.

4. Q. State whether or not you also had on board any money belonging to the libelants; if so, state how much, for what purpose it was given you, and if the same was so lost.

A. Yes, sir; I had some money—*in* $45 and $50,—which I had to pay the vessel's bills, and the money was lost with the schooner.

5. Q. Where was this money at the time the B'en'ch was lost, and how came it to be lost?

A. The money was in my pants-pocket; I had got wet after
43 leaving Chicago, and had just changed my clothes; hung my pants up in the cabin to dry; never thought to take the money out of my pants, as I was outside.

6. Q. State whether or not there was any other merchandize on board of the B'en'ch when it was lost; and if so, state what it was.

A. I think there was some other merchandize, but I can't mention the articles.

7. Q. State whether or not there was any vessel furniture on board of the vessel when she was lost, and if the same was lost with her; and if so, state what its value was.

A. Yes; there was some furniture, and it was lost; it was worth about $100.

Cross-ex.:

1. X-q. Who did the opera-glass belong to?

A. I don't know; I borrowed it.

2. X-q. Are you sure as to the amount of money in your pants?

A. I am sure it was between $45 & $50.

3. X-q. How long was it before the collision that you saw the money last?

A. About 3 hours.

4. X-q. Was the vessel furniture old or new?

A. Some new and some old.

5. X-q. What part new and what part old?

44 A. The bedding mostly new. The stove almost new. A good deal of tin-ware and dishes new. The balance, composed of table, chairs, lamps, stove, and fore-castle furniture, old. There were seven beds, quilts, blankets, &c.

J. R. CLEGHORN.

EXHIBIT A.

CHICAGO, *Sept. 11th*, 1866.

Mess. Dean & Taylor bought of Stearns, Forsyth & Co., wholesale grocers—

2 bags shot, 3 35	6 70
1 box C. pins	1 50
2 No. G. D. caps, box 10c., 60	1 30
1 bar. syrup, 42½, 1 15	48 88
1 " sp. vinegar, 386, 42, 30	13 60
1 tec. hard, 59, 327, 22	71 94
1 bag coffee, 170, 30	51
1 box saleratus, 60, 112	6 90
1 doz. blacking, 75	90
2 kegs 4 nails, 7 75	15 50
Ctg	1 00
	219 22

Shipped on board schooner "Baensch."

45 EXHIBIT B.

CHICAGO, *Sept* 11, 1866.

Mess. Dean & Taylor to Furst & Bradley, Dr.

24 coulter points, ※ 18	22 50

Rec'd payment.

FURST & BRADLEY.

(Duplicate.) t B.

EXHIBIT "C."

CHICAGO, *Sep. 10th*, 1866.

Bought of Joseph T. Ryerson—

1 box nailrod, 50, 1*s*	6 25
1 " stake iron, 102, 6¾	6 88
1 bar 1¼ ⌐ iron, 57, 5½	3 13
	16 26

Shipped on sch'r Baensch, Sep. 11, '66.
(Duplicate.)

46 EXHIBIT "D."

CHICAGO, *Sept.* 11, 1866.

Mess. Dean & Taylor bought of George A Smith and Co.—

1 ton c. meal	39 00
20 bags, 30	6
	45 00

Paid.

G. A. SMITH & CO.

(Duplicate.)

Shipped on sch'r B'ensch, Sept. 11, '67.

Deposition of J. B. Taylor.

My name is J. B. Taylor; I am one of the libelants.

2. Q. Have you examined the bills of merchandize attached to Capt. Cleghorn's deposition? And if so, state whether you know the value of the same, and your means of knowledge.

A. I have examined the bills and paid their amount in full in Chicago; I did not order the goods, but I paid those bills.

3. Q. Did you buy and pay for the 26 rolls of cotton batting mentioned in Capt. Cleghorn's deposition?

A. Yes, sir; I did.

47 4. Q. Please cast up the aggregate amount of the value of said merchandise, and the amount of money so paid by you for said merchandise?

A. $310 78 exclusive of the opera-glass, and the amount of money in the hands of the captain. I paid that amount for the merchandise.

5. Q. State to whom said opera-glass belonged, and the value of the same.

A. It belonged to the firm of Dean & Taylor, & cost $40.

6. Q. Have you any knowledge of the value of vessel property in Chicago in 1866? And if so, state in what the same consists.

A. I don't think I have any real knowledge of the value, as I was not buying and selling at that time, and have no personal knowledge.

7. Q. State whether or not you know the value of the B'en'ch in Sept., 1866; and if so, state what, in your opinion, she was worth.

A. I know what we considered her worth, $10,000, and would not like to have sold her for that.

8. Q. State how much higher vessel property, at Chicago, was in 1866 than in 1863, '64, & '65.

(Objected to.)

48 A. I don't think I could say of my own knowledge, as I was not dealing in vessels. I know they were a good deal higher, but I can't tell how much.

9. Q. State whether you think you could have sold the B'ensch in Chicago in 1866 for $10,000, on the usual terms.

(Objected to.)

A. I think we could, if we had offered her for sale.

Cross-ex.:

1. X-q. You didn't, then, offer her for sale during that time in 1866?

A. No, sir.

J. V. TAYLOR.

(Endorsed:) Filed Nov. 26, 1867. W'm H. Bradley, cl'k.

Depositions taken before Thomas S. McClellan, a notary public, at Chicago, Illinois, in said district, on the 4th, 5th, & 6th days of December, A. D. 1866, on the part of the libelants.

Deposition of J. Hanson.

Direct examination by Mr. Waite:

Q. What is your name, and where do you reside, and your occupation?

A. James Hanson; reside in New Denmark, Brown Co., Wisconsin; I am a sailor.

49 Q. How long have you sailed?
A. Five years.
Q. Were you on the schooner A. B'en'ch at the time the collision occurred between her and the propeller Dean Richmond? If so, state what time of day said collision occurred.
A. I was. It was ten o'clock at night.
Q. How long had you been sailing on the Baensch, and in what capacity?
A. A little over two months; I can't say exactly how long; a sailor.
Q. Whose trick at the wheel was it at the time the collision occurred?
A. It was my trick.
Q. How long had you been at the wheel?
A. About one hour.
Q. When you took the wheel what kind of weather was it?
A. Raining.
Q. Did it clear off? If so, when, that night?
A. It cleared off about half past nine.
Q. At the time of the collision, was there any stars visible?
A. Yes; it was starlight.
Q. Previous to taking the wheel, what had you been doing?
A. Hoisting up the sails and clearing off the deck.
50 Q. When you took the helm, what signal-lights had the Baensch up, if any?
A. She had a red light on her port side and a green light on her starboard side.
Q. Where were they placed, and how were they burning?
A. They were placed in the forward rigging, about fourteen feet from the water, & burning brightly.
Q. State whether or not those lights were continued up to the time of the collision, and how you could tell they were up from the wheel where you were steering.
A. I could see the reflection of her lights on the timber-head and rail from where I stood at the wheel, and on the water.
Q. State whether or not they continued to burn brightly up to the collision.
A. They burned brightly all the time.
Q. When you took the wheel, what sails had the schooner up?
A. Foresail, mainsail, and 4 jibs.
Q. State whether or not her sails were changed after you took the wheel & before the collision.
A. No; they were not changed.
Q. What do you mean by the 4 jibs?
A. Forestay-sail, jib and flying-jib, and jib-topsail.
51 Q. When the collision occurred, how was the wind blowing?
A. Blowing from west to west-southwest, with puffs.
Q. Fresh or light breeze?
A. Fresh.
Q. How long previous to the collision had the wind been so blowing?
A. Can't tell exactly; but it was so blowing when I took the wheel.
Q. At the time the collision occurred, how was the schooner steering?
A. North half west.
Q. How long had she been so steering previous to the collision?
A. About an hour.

Q. Who signaled the Dean Richmond, and what, if anything, did he say?

A. The man on the lookout sung out to the mate if he saw the light on the port bow.

Q. Did you look, &, if so, what did you see?

A. I saw a bright light.

Q. How did it bear from the Baensch?

A. About a point on her port bow.

Q. What did you take the light to be?

A. To be a steamer's light.

Q. Why did you take it to be a steamer's light?

A. Because it was a bright light, and because it was placed
52 higher above the water than a sail-vessel's light.

Q. About how long was it after you saw the lights of what proved to be the Dean Richmond before the collision occurred?

A. About ten or fifteen minutes.

Q. What did that light prove to be?

A. The propeller Dean Richmond.

Q. From the time the lookout sang out, "Light on the port bow," up to the time of the collision, what change, if any, was made in the course of the Baensch?

A. There was no change made in the course.

Q. From the time the lookout sang out, "Light on the port bow," up to the time the collision occurred, what course did the Baensch steer?

A. On north half west.

Q. How do you know she continued to steer that course?

A. Because I could see it by the compass.

Q. State whether there was a compass on the Baensch, & whether or not in steering her you could see the compass, and, if so, by what you steered the Baensch.

A. There was two compasses on the Baensch, and I steered her by the port compass. I could see them.

Q. Whereabouts did the Richmond strike the Baensch, and what did she do to the Baensch?

53 A. She struck her by the forward rigging on the port side, and sunk the Baensch.

Q. When the lookout sung out, "Light on the port bow", what course, from that time, did the Richmond steer till she run into you, apparently?

A. Can't tell exactly. She was heading right for us—a point on our port bow.

Q. What change, if any, did the Richmond make just before she ran into you in her course?

(Objected to.)

A. After she came up pretty close to us, she kept edging off, and showed her green light, & shut off her red light, and struck us.

Q. Then you say she kept edging off till she came pretty close to you?

A. After she came up pretty close to us, she commenced to edge off.

Q. What do you mean by edging off?

A. That she kept off from the wind to the eastward.

Q. Then, if I understand you, her edging off would bring her right on to you?

A. Yes.

Q. Previously to her edging off, which side of you was she apparently intending to pass?

A. To the windward of us.

Q. About off to what point in the lake did the collision occur?

54 A. About abreast of Port Clinton.

Q. About how far from the land?

A. About four or five miles.

Cross-ex. by Mr. RAE:

Q. On which side were your sails trimmed?

A. On the starboard side.

Q. When the wind became puffy, did you yaw any?

A. I don't know what that means.

Q. Don't you know what yaw means?

A. Well, I suppose it means keeping off or coming to.

Q. When these puffs came, did she keep off & come up again?

A. A little; about half or three quarters of a point.

Q. Did you have to steady her by the wheel, or did she steady herself?

A. I had to steady her by the wheel.

Q. How many spokes did you put up or down in steadying her?

A. I turned around the wheel once or half a time?

Q. When these puffs came, did they come from the west or west-southwest?

A. They came from the west.

Q. How often did they come, and how strong did they come?

A. They came pretty often and strong.

55 Q. During from the time you first saw the steamer's light, and the collision, did you see the steamer's light on the lee bow of the schooner?

A. No, sir.

Q. Were the sails so trimmed that it would have been possible for you to have seen the steamer's lights on the lee bow?

A. Yes.

Q. Who was standing near you at the time you first saw the steamer's light?

A. No one.

Q. Who came and talked with you after you saw the steamer's light, before the collision, and who did you talk with?

A. No one.

Q. How fast were you going at the time you first saw the steamer's light?

A. Between ten & eleven knots.

Q. Did you see any other lights around you, and, if so, in what direction from you?

A. I saw two steamers' lights a little astern of our starboard quarter?

Q. Did you not say just now that the steamers were about abeam of your lee quarter?

A. Yes, sir.

Q. How far were they off?

A. I could not tell exactly—about half or a quarter of a mile.

56 Q. How long had they been about in that position?

A. About half an hour.

Q. Did you see any lights to the windward of you?

A. No, sir.

Q. How long after you saw the light of the steamer on your weather bow was it till your man on the lookout reported it?

A. He reported it before I saw it.

Q. After the man on the lookout reported it, did any one come and assist you at the wheel, or did any one come and stand by the compass?

A. No, sir.

By Mr. WAITE:

Q. What helm did the Baensch ordinarily carry?

A. Weather helm.

JAMES HANSEN.

Deposition of M. McKinzie.

Deposition of MURDICK MCKINZIE.

Direct examination by Mr. Waite:

Q. What is your name, your age; where do you reside, and your occupation; and if a sailor, how long have you been so engaged, and were you on the Baensch at the time she was sunk in the collision
57 with the Richmond; if so, when did it occur, and where; and where was the Baensch bound?

A. Murdick McKinzie; twenty-five years old; reside in Chicago; am a sailor; have sailed for eleven years. I was on the Baensch at the time she was sunk by the propeller Dean Richmond. I was mate of the schooner A. Baensch. It occurred on the 11th of September A. D. 1866, at about ten o'clock at night, off Port Clinton. She left Chicago about eight o'clock at night, bound for Dean's Piere, Carlton. It was my watch on deck at the time the collision occurred, and had been ever since we left Chicago.

Q. Whose trick was it at the helm?

A. James Hanson's.

Q. How long had he been at the helm prior to the collision?

A. About an hour, as near as I can judge.

Q. Who was the lookout, and how long had he been such lookout?

A. His name was Archy Taylor; he had been there about an hour and a half previously to the collision.

Q. When you got out of the harbor of Chicago, what sails did you make on the Baensch, and how long *was* such sails continued?

A. Her foresail, mainsail, and her jibs, & carried them up to the time of the collision.

58 Q. How many jibs did you make when you left Chicago harbor?

A. Four, i. e. forestay-sail, jib, flying-jib, and jib-topsail.

Q. What lights, if any, were on the Baensch at the time the collision occurred; how were they burning; how were they placed; and how long were they so placed and burning, previous to the collision?

A. Green lights in her starboard forerigging, red on her port forerigging, twelve or fourteen feet above the level of the water. They were placed there when we got out of the Chicago piers, and burned good up to the time of the collision, for I watched them myself, and were kept there up to the time of the collision.

Q. How did you order the vessel to be steered, & how was she steered at the time of the collision; & how long had she been so steered previous to the collision?

A. She was steered north half west, and I ordered the man at the helm to so steer her as near as possible. She was steered north half west all the time; we never changed her course. She had been running that course for about an hour previous to the collision.

59 Q. How was the wind blowing at the time of the collision, & how long previous thereto had it been so blowing?

A. From west west-southwest, puffing, from the time we left Chicago; it was blowing fresh—a smart breeze.

Q. Did it rain that night; if so, did it clear off; if so, how long before the collision?

A. Rainy and cloudy the first part of the night. About half past nine it cleared up, and the stars shone brightly about a half an hour before the collision.

Q. Who signalled what afterwards proved to be the propeller Dean Richmond, & what did he sing out, & what did you do, if anything?

A. The man on the lookout sang out, "Light on the weather bow." I told him I saw it, and I watched it at the time.

Q. What did you see, and how was the light bearing from the Baensch?

A. I saw a bright light about a point on our port bow.

Q. About how long before the collision did you see the lights which afterwards proved to be the Dean Richmond?

A. About ten or twelve minutes, as near as I could judge.

60 Q. When you first saw the light, or about the time when you first saw the light, did you look at the compass on the Baensch; &, if so, for what purpose?

A. I looked at the compass when I saw the light, and then went forward. I told the man at the wheel to keep her steady, as near as he could. I found the Baensch heading north half west at the time.

Q. How long was it after the lookout sang out, "Light on the weather bow," *was it* until you went forward?

A. About three or four minutes.

Q. State whether or not you watched the lights of the Richmond from the time the lookout signaled her till the collision occurred; and, if so, state how the Dean Richmond bore from you, clear up to the time of the collision.

A. I went forward and watched her. She bore about a point on our port bow at the time. Soon I saw her red light; she was coming along on our port bow, and all at once she shut off her red light and showed the green, and came right for us. I saw she couldn't clear us; I sung out to the man at the wheel, "Hard up," twice, but before she minded her helm she, the Dean Richmond, struck us on our port bow near the fore-

61 rigging; she cut us into the keelson; she filled with water and fell over, & we got aboard the propeller. She sunk immediately.

Q. Did you sing out to the Dean Richmond; and what did you say, & did you get any answer?

A. I sung out, "Where in hell are you coming to?" Heard no answer.

Q. Did you have any conversation with the mate of the Richmond after the collision about the collision; if so, when & where did such conversation occur, & who was present, & what did he say?

(Objected to.)

A. I had some talk with him next day, on Kinzie street, in Chicago. James Hanson was alongside of us. He said he did not think we were running so fast. He said he wouldn't care so much if the captain of the propeller was on deck at the time.

Q. Did you ask him how we bore from them when they first saw us; if so, what answer did he make, if any?

(Objected to.)

A. We had a talk about that, & he said we bore about a half a point on their port bow when he seen us. I asked him where he was going

with her then. He said, "I don't know; there must have been a mistake somewhere."

Q. What was the mate's name?

A. I don't know his name.

62 Q. If the propeller, when you first saw her, had kept on her course, how far would she have gone from the Baensch, in your opinion, the Baensch steering as she was?

A. About half a mile on port side of us.

Q. How far were you from the land where the collision occurred?

A. About five miles or five miles and a half, as near as I can judge?

Cross examination by Mr. Rae:

Q. Where were you standing at the time the lookout hailed light on her weather bow?

A. I was standing aft on the poop alongside of the binnacle.

Q. Did you go forward to reconnoitre?

A. I went forward then and stood by the forward rigging & stood there until the collision took place.

Q. Did you have any conversation with the lookout while you stood there?

A. No more than he asked me what light that was there; I answered it was a steamboat's or a propeller's light.

Q. Did the lookout stand on the weather or lee bow?

A. Stood on the weather bow forward of the windlass end.

63 Q. Did you see the light before the lookout reported it; and, if so, how long before he reported it; on which bow?

A. I didn't see it until he sung out to me; I looked out and saw it about a point on our weather bow?

Q. How far did it appear to be from you?

A. About four or five miles, as near as I could judge.

Q. How long after you first saw it was it till the collision occurred, and how fast were you going at the time?

A. From ten to twelve minutes, as near as I can judge, and from ten to eleven miles, & left about the *about* same time with some propellers and beat them.

Q. What effect, if any, had the puffs upon you, and in what direction did they come?

A. It came about west-southwest, struck us pretty heavy, and she came up a little, as any vessel would do.

Q. Did you see the lights of any other vessels around; if so, in what direction, & what vessels were they on?

A. We passed one vessel between Chicago and Grasse Point; we passed outside of her; I could not see her lights. I did not see any vessels. I saw two propellers' lights; I don't call a propeller a

64 vessel. I call them steamboats.

Q. How far were the lights of the two propellers from you, and in what direction and what distance, and how long had they been in that direction & that distance?

A. One of them was about half a mile from us off our lee-quarter, little astern. The other was about a quarter a mile astern of her, as I judge; they had remained so about fifteen or twenty minutes.

Q. How long was it after the propeller seemed to change her course before the collision occurred, & did you hear any signal upon the propeller at any time before the collision occurred?

A. About two minutes, as near as I can judge, and changed her ourse to the eastward, I did not hear any signal.

Re-direct ex. by Mr. Waite:

Q. You say, in answer to the interrogatories-in-chief, that the Baensch kept steady on her course and did not change her course; could you tell this in any way than by the compass; if so, in what way?

A. Very easy by the stars & by the light of the propellers on our lee-quarter.

65 Q. From the time the light of the Richmond was first made down to the time of the collision, how did she bear from the Baensch?

A. A good big point, as near as I can judge, on our port bow?

Q. State whether or not, at any time, after the lookout hailed the light of the propeller, she, the propeller, was at any time to the eastward of the schooner Baensch. If you say not, how do you know that fact?

A. She was not, for I watched her all the time myself.

Q. You say you sung out, "Put your helm hard up." How soon after you gave that order did the propeller strike you?

A. About two seconds.

MURDICK McKINZIE.

Deposition of J. R. Cleghorn.

Direct examination by Mr. Waite:

Q. What is your name, age, occupation, & residence?

A. My name is James R. Cleghorn; age, 37 years; occupation, sailor; residence, Chicago.

Q. State if you were master of the schooner A. Baensch at the time the collision occurred between her and the propeller Dean Richmond. If so, when & where did said collision occur, and whose watch was it on the Baensch? How did the wind blow & what kind of a night

66 was it when the collision occurred? How was the Baensch steering, and what sails had she up?

A. I was master of the Baensch at the time of the collision with the propeller Dean Richmond. It occurred about ten o'clock at night near Port Clinton, about five or six miles off the land, as near as I can judge. It was the mate's watch on deck and had been from 8 o'clock p. m. The wind was squally from west to west-southwest, blowing fresh when we left Chicago; it was raining; dark, very dark; about twenty minutes or half past nine it cleared off & was starlight. The Baensch was steering north half west & had been so steering for about an hour before the collision occurred; she had mainsail, foresail, forestaysail, jib, flying-jib, and jib-topsail up. We left Chicago & were bound for Carleton, Wisconsin.

Q. At the time the collision occurred what lights had the Baensch & how long had they been so placed?

A. She had her signal-lights up, green light on the starboard side, red light on her port side, burning bright. They were put there when we left Chicago, just as we got outside the piers.

67 Q. State if you heard the lookout sing out anything or signal any vessel; if so, what did he say, and where were you, & what did you do. State all that occurred till the collision occurred after you came on deck, if you say you came on deck.

A. When the lookout sung out to the mate, "Do you see that light on the weather bow?" I heard the mate say, "I see it;" and I heard him walk forward. I was in the cabin at the time. As he went forward I came on deck. I saw the propeller's light on the weather bow, about a

point on the weather bow. I asked the man at the helm if she was on her course. He made answer, "Yes, sir." I told him to watch her close and keep her steady. I stepped over about the main rigging, on the port side, and stood looking at the light. I saw a red light and a bright light. I knew it was a steamboat or a propeller, & supposed, by the way he was going, he was going to pass us to windward; & as he got pretty close up to us he seemed to keep right off, and shut in his red light & opened out his green light, running right down to the eastward, & I saw that he was going to strike us, but he was so close that I could do nothing to keep out of his way. He struck us about the
68 port fore-rigging, and stove us right into our keelson, so that his stern was right up against our foremast, and I immediately told the men to jump aboard the propeller, which they did. She (the Baensch) immediately capsized on her beam ends, so that we had no time to save anything, and she and her cargo proved a total loss.

Q. State whether or not you asked any one aboard the Richmond to throw a hawzer or line to you after the collision occurred; & if so, what did you ask him, and what reply was made.

A. I asked him to slack up his big line that was hanging over the bow, & let me make it fast, & tow us back to Chicago. The mate sung out the same thing two or three times. The answer we got, "No, no; jump aboard, jump aboard." I think if he had given me a line, & towed me back near Chicago, in shallow water, we could have raised the vessel, & got her into Chicago harbor next day.

Q. How long before the collision did you come on deck? and state whether or not you remained on deck all the time after you came up from the cabin till the collision occurred.

A. I came on deck, as near as I can judge, about ten minutes
69 before the collision occurred, & stood near the main rigging until he run into us.

Q. When you came on deck what course was the Baensch steering?

A. North half west.

Q. And how was she kept?

A. Kept as steady as it was possible to keep her with the squalls; perhaps she varied in her course a half a point, but I don't think outside of that. At the time of the collision there was a good man at the wheel, & previous; in fact, the best there was aboard.

Q. Who was that man?

A. His name is James Hanson.

Q. You say she was kept steady on her course from the time the lights of the propeller were signaled till the collision? State what means you had of knowin' that fact.

A. Because I could see if she was swinging, by the stars, or by propeller's light on our lee quarter, and also by the light on our weather bow, i. e., the light of the Dean Richmond.

Q. State whether or not you continued to watch the propeller from the time you came on deck till the time the collision occurred. If so, how did she bear from you at that time, & over which bow did she bear?

70 A. Yes, sir; I watched her all the time. She bore, as near as I can judge, when I first saw her, about a point on our weather bow, & still kept on our weather bow the whole time, up to the time of the collision. I never lost sight of his light at all.

Q. Was the port side, where you say you were standing, in the way which the schooner was going, the same as her windward side?

A. Yes, sir.

Q. State whether or not, from the time you came on deck till the collision occurred, the Richmond was at any time to the eastward of the Baensch?

A. No, sir; for if she had been I could not have seen her lights from where I stood without changing my position.

Q. Why could you not have seen her if she had been to the eastward of where you stood?

A. Because the canvass would have been between her lights & me, from where I stood.

Q. Who was the mate on the Baensch; & just before the collision occurred did you hear him sing out anything; if so, what; & how long was that before the collision?

A. The mate's name was Murdick McKinzie, and a few seconds the collision, it seemed to me, he sung out, "Where are you going?" twice, and immediately following, "hard-up," "hard-up." Before he had
71 the words out of his mouth the second time the Dean Richmond ran into us.

Q. State whether or not there was room for the Dean Richmond to have gone on either side of you.

A. Yes, sir; plenty of room; but there was more room to windward than there was to leeward, without running off his course further; because there was nothing to windward of us, within three miles I should judge the nearest, and that was a vessel in-shore, as much as a mile and a half, or two miles, in-shore of us, so that we could just see his green lights; and there was two propellers to leeward of us, a little astern of our quarter, about half a mile or three-quarters of a mile east of us.

Q. Then there was plenty of room for her to have gone to the westward?

A. Yes, sir; plenty.

Q. I do not quite understand the position of the vessel you speak of, to the windward of you. How far would you judge her to be to the windward of you, and how far off from you, & what direction did she bear from you, and was she a sail or steam vessel?

A. She was about a mile and a half, or two miles, to windward.
72 She was, I think, as much as three miles astern of us, or somewhere near that. I did not take any bearance of her, but she was off abaft our weather quarter. She was a sail vessel.

Q. When you discovered that the Dean Richmond was about to collide with you, what, if anything, could you have done on the Baensch to have avoided the collision?

A. I could not do anything, for she was so close to me when I saw his green light that it was impossible to get out of his way with safety. If I had had a little more time, and those propellers had not been so close to us, I might have put the helm up & run her off in the same direction the Dean Richmond was going when she struck us. The propellers were about a half a mile or three-quarters to the eastward of us.

Q. State whether or not you had any cargo on board of said Baensch at the time she was sunk by the said collision; if so, what, and to whom did the same belong, & what was the value of the same?

A. Yes, sir; we had some merchandise on board. It belonged to Dean & Taylor, the libellants; value I should judge to between four or five hundred dollars.

73 Q. Look at the bill now shown to you, marked Exhibit "A," & state whether or not you had the articles on board mentioned in said exhibit; if so, state if it is a correct bill of the same, and the correct price thereof.

A. Yes, sir; that is correct, to the best of my knowledge.

Q. Who owned the schooner Baensch at the time of her loss?

A. Elisha B. Dean and Joel V. Taylor, the libellants.

Q. In one of your answers you say, as he got pretty close up to us "he seemed to keep right off, &c." What do you mean by "keep right off?"

A. I mean that the wind was to the westward at the time, & he steered more to the eastward. That is what I call "keep right off."

Q. Then you mean that he bore right down on to you?

A. No. sir; I don't; but by his keeping away, & we keeping right on, it would bring us right together.

Q. When you saw that he would run into you, as you say in the last answer—what, if anything, could you have done to have avoided the collision?

A. I could no nothing with safety.

74 Cross-examination by Mr. Rae:

Q. At the time you noticed she kept off, how did she bear on your weather bow when you noticed her first keeping off, & immediately preceding her keeping off, & what distance was she from you when you noticed her commencing to keep off?

A. I won't be certain how she would bear from us, but as near as I could form an opinion, she was about half a mile ahead, & to windward.

Q. Had she kept on the course she was steering before she commenced to keep off, & you had kept on the course you were steering, how far would she have passed you to windward in passing you?

A. She would have been pretty close to us, perhaps about a quarter of a mile.

Q. How soon could you have stayed your vessel on that night?

A. If my sheets had been aft I could stay her in a minute, or a minute and a half. With her sails as they were I might have done it in the same time, but not with a surety.

Q. In staying, how far would she have *had* reached?

A. With the sails as they were I think she would go about a
75 quarter of a mile, perhaps more, perhaps less.

Q. How long would it have taken you to wear ship, & how many points would she have kept off had her wheel been put hard up, in a given time?

A. It would have taken some ten or fifteen minutes to wear ship that night at that time. I can't tell how many points she would keep off in a given time.

Q. In using the term wear ship, when you say it would have taken ten minutes, do you mean to go about, or to go before the wind; & if you mean to go about, how long would it have taken to go before the wind?

A. What I understand by wear ship is to bring the wind on the other side. It might take five minutes, perhaps more, perhaps less. By keeping her off before the wind, & gibing the booms over—that would have been to wear her.

Redirect ex. by Mr. Waite:

Q. When you discovered that she was likely to run into you, if you had gone into stays, or stayed your vessel, would it have avoided the collision?

A. That's a question. It might; if I had had any idea of his run-

76 ning into us I might have stayed her before he got up to us, & stood in-shore.

Q. When you perceived that the collision was likely to occur, if then you had stayed your vessel, would it have avoided the collision?

A. I think not. I think we would have run into her; & did not dare to change my course, as the law says steam-vessels shall give way for sail-vessels.

Q. When you discovered that there was danger of her running into you, what, if anything, could you have done to have avoided the collision with success?

A. Nothing.

Q. When you discovered for the first time there was danger of a collision, and if those on board of the propeller at the same time had made the same discovery, what, if anything, could they, i. e., they on board the steamer, have done to have avoided the collision?

A. I don't know, unless it would have been to put their helm aport, to throw her head to westward.

JAMES R. CLEGHORN.

77 EXHIBIT "A."

Amount of goods, wares, and merchandise lost on board the Baensch on the night of Sept. 11th, 1866, to wit:

2 doz. plow-points	22 50
Field, Palmer & Lister	5 84
J. T. Rierson	16 26
1 opera-glass	35 00
Bill of Fred. G. A. Smith	39 00
Bill groceries, Stevens & Forsyth	219 22
Cash	50 00
Stoves	35 00
	$422 82

DEAN & TAYLOR.

(Endorsed:) Opened for Mr. Waite, proctor, July 15, 1868. W'm H. Bradley, cl'k.

78 *Deposition of A. J. Taylor.*

Deposition of A. J. Taylor, taken before David B. Lyman, a notary public, at Chicago, Illinois, on the 21st of December, A. D. 1867, on the part of the libelants.

1. Q. What is your name, age, and occupation?

A. Archer J. Taylor; 23 years of age; a sailor.

2. Q. Were you on the schooner B'en'ch at the time the propeller Dean Richmond ran into her in Sept., 1866; if so, what was you doing?

A. I was on the schooner B'en'ch at that time, on the lookout.

3. Q. When did your watch as lookout commence?

A. At eight o'clock.

4. Q. What signal-lights, if any, were there on the Baensch at the time the collision occurred, and where were they placed?

A. A red light and a green light. They were placed in the forward rigging, on the starboard side and the port side.

5. Q. On which side was her green light—I mean the green light of the B'en'ch?

A. On the starboard side.

6. Q. On which side the red light?

A. On the port side.

79 7. Q. How high up in the fore rigging were they placed?

A. About fifteen feet from the water.

8. Q. How long had they been so placed previous to the collision, and how did they burn from the time they were so placed up to the time of the collision?

A. From half past seven, as soon as it got dark enough to need the light. They burned well till the time of the collision.

9. Q. When your trick commenced, what sail had you up, and what change was made in the sail from that time till the collision occurred?

A. The foresail, mainsail, the forestaysail, the jib-flying-jib, and jib-topsail. No change was made in the sail that I know of.

10. Q. Where were you stationed as a lookout?

A. Between the foremast and the windlass, on the port side.

11. Q. Did you see the propeller Dean Richmond before the collision; if so, about how long before the collision did you see her, and how did she bear from the Baensch?

80 A. I seen her about ten minutes before she ran into us. She bore about a point to the windward of us.

12. Q. What did you say, if anything, to any one?

A. I reported the light to the mate. I asked if he saw the bright light ahead of us. He said, Yes.

13. Q. What did the mate do?

A. The mate said he saw the light, and he asked the man at the wheel how he headed, and he replied that he was on his course.

14. Q. What did you take the Richmond to be when you first saw her, and why did you so take her to be?

A. I took her to be a steamer; she carried a bright light as high as her masthead.

15. Q. What colored light, if any, on the Richmond did you first see?

A. A red light.

16. Q. When you first saw the Richmond, on which side did she act as if she intended to pass you?

A. On the port side.

17. Q. What did she do after that?

A. She kept on for a while, and showed her green light, as if she was going to the windward of us—I mean leeward.

81 18. Q. When you first saw her, was she to the windward or leeward of you?

A. She was to the windward of us.

19. Q. About how far to the windward of you—I mean how many points?

A. About a point to the windward of us.

20. Q. How long did she keep to the windward of you?

A. She kept to the windward of us till she ran into us.

21. Q. How long was it before the collision that she showed her green light?

A. A few minutes after we first saw her.

22. Q. You say that she continued to the windward of you up to the time that the collision occurred. Which bow of the B'en'ch did she strike?

A. She struck the port bow.

Cross:

1. X-q. Where do you reside?

A. I reside on Washington, between Franklin & Wells sts.

2. X-q. How long have you resided there?

A. Since the latter part of February. I don't remember the number of my house.

3. X-q. What business are you in now?

82 A. Working in Letz foundry.

4. X-q. Did you, from the time you first saw the light till the collision occurred, go aft?

A. No, sir.

5. X-q. Any one at the bow with you besides yourself?

A. The mate was me, aft of the forerigging, five or six feet from me.

6. X-q. After you saw the light, who was forward with you?

A. The mate.

7. X-q. Did he remain forward all of the time?

A. No; he stood alongside of me, and walked aft a little piece, and came forward again, and she struck.

8. X-q. How far aft did he walk?

A. He didn't go very far, to my knowledge. I was looking at the light. He was away from me only a few seconds all together.

9. X-q. Any one else forward besides him?

A. Nobody, except me.

10. Do you know of anything that could have been done, on the part of the schooner, to avoid the collision?

A. Not as I know of, as long as she was on her course.

83 11. X-q. Do you know of anything the officers or crew could have done to avoid the collision?

A. No, sir; she came on us too sudden.

A. J. TAYLOR.

(Endorsed:) Opened for Mr. Waite, proctor. July 15, 1868. W'm H. Bradley, cl'k.

RESPONDENT'S PROOF.

Deposition of S. V. McClung.

Deposition of Sidney V. McClung, taken before William H. Condon, a notary public at Chicago, Illinois, in said district, on the 24th of December, A. D. 1868, on the part of respondent.

Int. 1. What is your name, age, residence, and occupation?

A. Sidney V. McClung; age, forty; residence, Ashtabula County, Ohio; occupation, sailor.

Int. 2. Where was you on the eleventh day of September, 1865, and in what capacity?

A. I was on the propeller Dean Richmond, acting as first mate of her.

Int. 3. On the night of the eleventh instant, where were you
84 stationed, on board of the Dean Richmond, and what were you doing?

A. I was stationed on the forward part of the boat, as is usual for officers of the deck, part of the time in front of the pilot-house, on the upper or hurricane deck, the other part of the time on the promenade deck, forward of the capstan.

Int. 4. How long had you been there?

A. Some time between six and seven o'clock in the evening my watch commenced.

Int. 5. Was anyone on the lookout with you?

A. Yes, sir; called a lookout or watchman; lookout would be the proper name for him.

Int. 6. Where was he stationed, and what was his name?

A. He was stationed with me; his place was in the forward part of the boat, on the upper deck. His name was Brett; he was a son of the captain's, Richard was his name, if I am not very much mistaken.

Int. 7. What else had he or you to do beside looking out?

A. The lookout had nothing else to do.

Int. 8. Where was the captain during all this time?

A. The captain had been on deck all the time, with the exception
85 of a few minutes before the collision; he was part of the time in the pilot-house, and part of the time on deck.

Int. 9. Was he at any time away from the decks of the vessel? (Objected to as leading.)

A. Yes, sir; I should judge about five minutes, at the time I made the Baen'ch's light the first time.

Int. 10. Had you a collision on that night?

A. Yes, sir.

Int. 11. About what time did the collision occur?

A. As near as I recollect in the neighborhood of ten o'clock, or between that time and half-past nine.

Int. 12. Whereabouts on the lake did the collision occur?

A. About twenty miles north of Chicago.

Int. 13. How far from the shore, and which shore?

A. I judge myself to be from four to five miles of the west shore at that time.

Int. 14. What vessel did you collide with?

A. I was informed by the crew at that time that it was the
86 schooner A. Baensch—the Baensch at all events.

Int. 15. What part of the Baensch was first seen, and who saw it?

A. Her green light was first seen by me; the lookout might have seen it; I don't recollect.

Int. 16. What kind of a night was it?

A. It had been raining; it had ceased, but the night was dark, but clear; I mean no fog.

Int. 17. How was the Dean Richmond heading at the time you first saw the Baensch?

A. South by east, by our compass.

Int. 18. How long had she been heading in that way?

A. She had been heading that way all the forepart of the evening, at least while I was on deck.

Int. 19. How did the Baensch bear from you?

A. When I first saw her light she was about a half a point on our port bow, as near as I can judge.

Int. 20. How many miles off?

A. Three or four miles off, perhaps farther.

Int. 21. What light did you see?

A. I saw her green light.

Int. 22. How was the wind?

87 A. Well, the wind was off land; it might have been as high as west-southwest, but no higher, blowing fresh.

Int. 23. Did you see any other lights beside those you saw on the Baensch?

A. I saw a green light about a point and a half to the westward of her, in-shore, and the lights of two propellers to the eastward.

Int. 24. Did you see any other lights of any other vessels?

A. I don't recollect of seeing any more than those four lights at that time.

Int. 25. State how the vessel to the windward of you was situated in reference to the lights of the Baensch?

A. When I first saw the vessel's lights she appeared to be nearly abreast of the Baensch, a mile or two inside, or to the windward of her—the Baensch.

Int. 26. How were the propellers situated as to each other, the propellers east of the Baensch?

A. They were—one seemed to be a little ahead of the other, not quite abreast of each other, and nearly a mile to the eastward of the Baensch when I first saw her lights.

Int. 27. So soon as the light of the Baensch was discovered on
88 board of your vessel, what was done on board of your vessel, and who did it?

A. I ordered the wheelsman to starboard a point.

Int. 28. How long was this before the collision?

A. In the neighborhood of fifteen minutes, more or less.

Int. 29. How did your vessel head after that order?

A. South, southeast.

Int. 30. What effect had the order on the Baensch?

A. It brought her about half a point on her starboard bow or to the windward of us.

Int. 31. How long did you continue in that position, sir?

A. About five minutes.

Int. 32. Was the captain of the propeller on deck at this time?

A. He was not at the time I first changed the course, but was very few minutes afterwards, probably two or three minutes; he had been gone off the deck then.

Int. 33. Who gave the subsequent orders, if any were given, on your vessel?

A. Captain Brett himself took charge when he returned on deck?

89 Int. 34. How did the vessel's light bear at the time Captain Brett took charge?

A. It bore from a half a point to a point on the starboard bow, or to the windward the green light; we saw no other at that time.

Int. 35. What change, if any, was made in your course after you ordered the wheel to be starboarded?

A. Changed our course one point to the eastward.

Int. 36. What alterations, if any, appeared in the lights of the Baensch after you changed your course one point to the eastward?

A. It brought the light of the Baensch half a point on our starboard bow.

Int. 37. State what occurred after this.

A. The captain returned on deck; we then appeared to be opening her light; the green light of the Baensch, which was all the light we saw at that time; in the neighborhood of two or three minutes we saw both red and green light of the Baensch; for about a minute, perhaps, the red light was then shut or shut out; she showed no other light but her green light again; she appeared to keep on that course for two or three

minutes longer, and then showed both lights again; when she
90 first showed her red and green lights the captain ordered our wheel starboarded, and also the second time she showed her red and green lights he ordered it starboarded more; she then shut in her red light the second time, showing nothing but green—she nothing then but green light for two or three minutes longer; she then opened both lights, steering directly for us, apparently; the captain then went on top of the pilot-house, and I heard the bell-wires working, but can't tell what the signals were; I did not hear them, only the working of the wires.

Int. 38. Did the movement on your part, of going to the starboard, have any effect of shutting of' the red light of the schooner after you saw her red light?

(Objected to as leading.)

A. I think not; it must have been done by the yawing or steering of the schooner.

Int. 39. Was her green light at any time shut out before the collision?

A. It was soon after the captain went on top of the pilot-house.

Int. 40. Had the signal wires been pulled by the captain before her green light was shut out; and if so, how long before?

91 A. I think they had about a minute before that time, or a minute and a half; not longer than that time.

Int. 41. Did you at any time hear your engine reversed?

A. No, sir; couldn't hear that reversed; could only tell by the motion of the boat when the engine was stopped.

Int. 42. Did you notice any change in the movement of the boat, and if so, what was it?

A. I noticed that the shaking of the boat had ceased for a moment, then commenced again as if the engine had been set in motion again; can't tell whether it was or not, but presume it was.

Int. 43. Was there any reason why you didn't go further to the eastward, and if so, what was it?

A. We had come pretty close to these other boats now, meeting them; they were bound down and we were bound up; there was danger of collision with these other boats or propellers.

Int. 44. State how fast the propellers were going relatively with the Baensch.

A. Well, sir, I should judge they were going about the same speed, nine or ten knots an hour, perhaps a little faster than the Baensch.

92 Int. 45. Had the Richmond, after you saw the light of the Baensch, altered her speed in any way, and if so, in what way?

A. Not to my knowledge until stopped by the captain.

Int. 46. At what time was it, did it appear, that there was any danger of a collision?

A. Well, there didn't appear to be any real danger until the Baensch showed both her lights the last time.

Int. 47. How soon after that was it that the master pulled the signal-wires?

A. Just as soon as we saw both of her lights the last time; just as soon as he could get from the hurricane deck to the top of the pilot-house.

Int. 48. Did your vessel, at any time after you saw the Baensch's green light, change her course to the southward and westward, and if yea, state when she so changed?

(Objected to as leading.)

A. She did not.

minutes longer, and then showed both lights again; when she
90 first showed her red and green lights the captain ordered our wheel starboarded, and also the second time she showed her red and green lights he ordered it starboarded more; she then shut in her red light the second time, showing nothing but green—she nothing then but green light for two or three minutes longer; she then opened both lights, steering directly for us, apparently; the captain then went on top of the pilot-house, and I heard the bell-wires working, but can't tell what the signals were; I did not hear them, only the working of the wires.

Int. 38. Did the movement on your part, of going to the starboard, have any effect of shutting of' the red light of the schooner after you saw her red light?

(Objected to as leading.)

A. I think not; it must have been done by the yawing or steering of the schooner.

Int. 39. Was her green light at any time shut out before the collision?

A. It was soon after the captain went on top of the pilot-house.

Int. 40. Had the signal wires been pulled by the captain before her green light was shut out; and if so, how long before?

91 A. I think they had about a minute before that time, or a minute and a half; not longer than that time.

Int. 41. Did you at any time hear your engine reversed?

A. No, sir; couldn't hear that reversed; could only tell by the motion of the boat when the engine was stopped.

Int. 42. Did you notice any change in the movement of the boat, and if so, what was it?

A. I noticed that the shaking of the boat had ceased for a moment, then commenced again as if the engine had been set in motion again; can't tell whether it was or not, but presume it was.

Int. 43. Was there any reason why you didn't go further to the eastward, and if so, what was it?

A. We had come pretty close to these other boats now, meeting them; they were bound down and we were bound up; there was danger of collision with these other boats or propellers.

Int. 44. State how fast the propellers were going relatively with the Baensch.

A. Well, sir, I should judge they were going about the same speed, nine or ten knots an hour, perhaps a little faster than the Baensch.

92 Int. 45. Had the Richmond, after you saw the light of the Baensch, altered her speed in any way, and if so, in what way?

A. Not to my knowledge until stopped by the captain.

Int. 46. At what time was it, did it appear, that there was any danger of a collision?

A. Well, there didn't appear to be any real danger until the Baensch showed both her lights the last time.

Int. 47. How soon after that was it that the master pulled the signal-wires?

A. Just as soon as we saw both of her lights the last time; just as soon as he could get from the hurricane deck to the top of the pilot-house.

Int. 48. Did your vessel, at any time after you saw the Baensch's green light, change her course to the southward and westward, and if yea, state when she so changed?

(Objected to as leading.)

A. She did not.

Int. 49. How long have you been engaged in sailing on the lakes and elsewhere?

A. Well, about twelve years altogether; commenced long before that, but quit a while.

Int. 50. At the time when you first saw the Baensch's light, and
93 before you starboarded your wheel, had the Baensch kept her course and you kept your course, would there have been any collision, and how far apart would you have passed?

(Objected to as leading.)

A. I hardly know how to answer that; there might not have been, but we should have passed very close under her stern.

Int. 51. After you starboarded your helm what danger would there have been of collision had the Baensch kept her course?

A. None whatever, sir.

Int. 52. How far and in what direction would you have passed her?

A. We would have passed to the eastward of her nearly a mile if not more.

Int. 53. Just take paper marked Exhibit "A" and place the two vessels and the propellers and the vessels in shore.

(Objected to as incompetent.)

The witness has placed them on Exhibit A, which is hereto attached.

Int. 54. What did you say in reference to the position of the two propellers to the leeward of the Baensch?

A. I said that they might have been placed too far off from the Baensch in the flat.

94 Int. 55. How did the schooner Baensch appear to you to be heading?

A. Appeared to me from her lights she was heading to the westward of us towards the shore.

Int. 56. When you first saw her on which side of you was she?

A. I judge she was about half a point on our port-bow—that would be to the eastward.

Int. 57. Did you make any signals to the other propellers, and if not, why not?

A. We did not make any for the reason that when we saw there was immediate danger of collision we were all so close together that we were afraid that the propellers would misunderstand us.

Int. 58. On which bow of the schooner did the propeller strike?

A. On the port-bow.

Int. 59. How did the Baensch appear to be heading at the time you struck her?

Witness says: I would like to change my last answer. We struck her on the port side; am not certain whether it was forward or aft of the forerigging. The Baensch appeared to be heading nearly north-northeast, perhaps not more than north by east.

Int. 60. Take paper now handed you, marked Exhibit B, and
95 place the vessels as they appeared at the time of the collision.

A. I have done so, (and it is hereto attached marked Exhibit B.)

Cross-examined by Mr. Waite:

X-int. 1. When the light of the Baensch was first discovered if the wheel of the Dean Richmond had been put one point to port would not in point of fact the collision have been avoided with the Baensch?

A. No, sir; think it would have hastened it in case the Baensch had kept the same course she was steering.

X-int. 2. How much would it have been hastened?

A. Probably not more than two or three minutes; they would have neared each other the more rapidly, that is all.

X-int. 3. Suppose you had put your helm two points to the port would not that have avoided the collision with the Baensch?

A. No, sir; had the Baensch kept the course she was then steering I don't think it could have been avoided with a port wheel unless the boat was turned around.

X-int. 4. Suppose when you first saw the Baensch your helm had been put two points to the starboard, instead of one, would not the collision have been avoided?

96 A. It might possibly in case the Baensch had kept her course.

X-int. 5. Suppose the B'en'ch to have been steered as you say she was and suppose when you first saw her light you had put your helm two points to the starboard and kept it there, would not the collision have been avoided?

A. Well, it might have been but I hardly think it would have been under the circumstances.

X-int. 6. In the distance that you were from the Baensch when her light was first discovered how many feet to the eastward would the putting the helm of the propeller two points have thrown the propeller when she reached opposite to the Baensch east of where the propeller would have been if her helm had only been put one point to the starboard?

A. Well, I don't know as I can answer that question. I never computed the distance on water by feet yet; in the distance of a point it is necessary to tell how fast she was going and how much ground she went over.

X-int. 7. How far was the propeller from the Baensch when you put your helm one point to the starboard, and what was the speed which you were going?

97 A. She was probably, I should judge, in the neighborhood of four miles or further; couldn't tell exactly, had nothing to judge by but the light. She was called good nine-mile boat; don't know whether she was going her full speed or not, probably not to exceed nine miles an hour.

X-int. 8. On going two miles with your propeller, at the speed of nine miles an hour, how much difference will one point make in the position of the propellor at the end of two miles?

(Objected to as being a mathematical point.)

A. I can't say without figuring. One point in going a hundred miles is supposed to make a difference of twenty miles or in that neighborhood, first.

X-int. 9. When you put your helm two points to the starboard if you had put your helm three points to the starboard would the collision with the Baensch have been avoided?

A. It might have been, but would have laid us liable to a collision with the propellers. It would have run us across the bows of the other propellers.

98 X-int. 10. How far off were the propellers when you first put your helm two points to the starboard?

A. The helm wasn't put two points to the starboard only one time, sir.

X-int. 11. When you put your helm one point farther to the starboard, how far were the propellers off?

A. The inside propeller was not more than three-quarters of a mile off.

X-int. 12. How far was she to the eastward from the Baensch, & how far from the B'en'ch?

A. I should judge she was something over a mile to the eastward of the Baensch the second time the course was changed; not more than a mile and a quarter off. She was a little ahead of the Baensch.

X-int. 13. How far was the other propeller to the eastward of the Baensch and distant from the Baench the second time your course was changed?

A. I couldn't tell, sir.

14. How far was the second propeller to the stern and eastward of the first propeller.

A. I could not swear positively as to her position at that time.

99 15. You say you changed your course the second time. How did you chande it, and how far was the Baensch from you when you so changed it?

A. I said the captain changed the course a second time. As near as I can recollect now, she was between two and three miles off at that time; probably not over two.

16. How did the captain change your course a second time, and did you see your compass from the time the captain took charge of the deck till the collision occurred?

A. I don't recollect that he changed it to any particular point, but when he got her off as far as he thought proper, he told the wheelsman to steady his wheel. No, sir; I did not see the compass after I changed the course once, that I recollect of.

X-int. 17. If I understood you, you simply changed the propeller's course one point to the starboard after the light of the Baensch was first seen, and that was all the change made by you till the captain took charge. Am I right?

A. To the best of my recollection, that is so, sir. I changed the course but once.

X-int. 18. Then you did not see the compass from the time the captain took charge till the collision occurred?

100 A. To the best of my recollection, I did not after I changed the course.

X-int. 19. How far were you from the *the* wheel from the time the captain took charge till the collision occurred; were you, during any of that time, where you could see the wheel?

A. I was within six feet of the wheel most of the time, on the upper deck, just forward of the pilot-house. I could see the wheel by looking through the windows of the pilot-house.

X-int. 20. Did you, from the time the captain took charge, look through the windows to see how the wheel was?

A. Not particularly, that I recollect of.

X-int. 21. You, in one of your previous answers, say "The second time the course was changed," then you did not see the course changed.

A. I did not see the course changed by movement of the wheel, but could see the change in the course from the different position of the boat in regard to the lights.

X-int. 22. What lights?

A. The vessel lights and the propeller lights.

X-int. 23. When you say the second change in the course was made, what lights of the Baensch did you see?

101 A. Both her red and green lights, for the space of nearly a minute.

X-int. 24. If, then, the engine of the propeller had been stopped, would

not the collision have been avoided—I mean at the time your course was changed the second time.

A. No, sir; I think not.

X-int. 25. Why not?

A. Because the Baensch, at that time, appeared to be heading directly for us. The only way it could have been avoided at all was to put the wheel starboard, and run out of her way, if possible.

X-int. 26. Was the helm of the Richmond then put hard astarboard?

A. I think not.

X-int. 27. If it had then been put hard astarboard, would not the collision with the Baensch have been avoided?

A. Yes, I think it would, under the circumstances at that time, for at that time the Baensch shifted her course, put her wheel astarboard, and, had she kept it so, she would have gone clear.

X-int. 28. Did you see the helm of the Baensch at all? Answer my question, yes or no.

A. No.

X-int. 29. If, when the helm of the Richmond was changed the
102 second time, it had been put hard aport, would not the collision have been avoided with the Baensch?

A. No, sir; it would not.

X-int. 30. Why not?

A. Because the Baensch was well on our starboard side, apparently coming directly for us. At that time it would have been impossible to have avoided a collision, with a port wheel.

X-int. 31. How was the Bench then apparently heading by the compass?

A. I did not take her bearings by the compass; did not see the compass after I changed her course.

Re-direct:

Int. 1. How do you want the line altered, if at all, on Exhibit A?

A. From the propeller towards the south, bearing a point eastward of south, a straight line.

Int. 2. In answer to interrogatory you say: At that time the Baensch shifted her course, put her wheel starboard, and, had she kept so, would have gone clear. Did the Baensch keep her wheel starboard?

(Objected to as incompetent.)

103 A. No; she did not.

Int. 3. How did the Baensch put her wheel after you say she did not keep it astarboard? How did it change her course; was or was not the collision the consequence of her changing that course?

(Objected to as leading, as implying a change of course of the Baensch, and incompetent.)

A. We changed our course a second time. She was apparently heading directly for us for a moment. Then shut in her red lights, showing nothing but the green for a short time. Then again showed both lights for a short time. Shut out her green light entirely, and ran down across our bows. The collision was the consequence of her changing that course.

SIDNEY V. McCLUNG.

Subscribed and sworn to before me this 24th , A. D. 1868.

[SEAL.] W'M H. CONDON,
Notary Public.

104 (Here follows diagram, marked page 104.)

105 (Endorsed:) Filed July 15th, 1868. W. H. Bradley, cl'k.

Deposition of W. D. Brett.

Deposition of WILLIAM D. BRETT, taken before Conway W. Noble, a notary public within and for the county Cuyahoga, and State of Ohio, on the 25th of April, 1868, on the part of the respondent.

1. Question by : Please state your name, age, occupation, your present residence, how long you have lived there, and whether you are acquainted with the parties to this suit.

Answer. William D. Brett is my name; I am twenty-two years old; occupation, wholesale liquor business; I am living at Cleveland, Ohio; have lived there four years.

2. Question. State whether or not you were on board the propeller Dean Richmond when she had a collision with the schooner Baensch.

Answer. I was.

3. Question. How long had you then been employed on board the propeller?

Answer. Two seasons.

4. Question. In what capacity?

Answer. Watchman or lookout.

106 5. Question. Prior to your employment on the propeller, what experience had you had on the water?

Answer. Had sailed a great deal, though not in any employment as a seaman.

6. Question. About what time in the evening did the collision occur?

Answer. Between nine and ten.

7. Question. At the time the light of the Baensch was first made, in what capacity were you acting on the propeller?

Answer. Lookout.

8. Question. How long had you been on the watch or lookout?

Answer. Since about half-past six in the evening.

9. Question. What position on the deck did you occupy as lookout?

Answer. Part of the time on the hurricane deck forward of the pilot-house, & part of the time on the promenade deck, forward of the capstan.

10. Question. What were you constantly engaged in doing while acting as lookout?

(Objected to by counsel for libelant as leading.)

Answer. Looking out for light of vessels and propellers.

11. Question. What position did you occupy when you first saw the light of the Baensch?

107 Answer. Forward of the pilot-house.

12. Question. Who was with you when the light was first made?

Answer. The first mate.

13. Question. Which of you first discovered the light of the Baensch?

Answer. I don't know which saw it first.

14. Question. State whether you discovered the light?

Answer. Yes; I saw the light.

15. Question. State what you know, if anything, about the mate's seeing it at the same time.

Answer. Yes, sir; he saw the light at the same time.

16. Question. What was the color of the light, and how did it bear when you first discovered it?

Answer. It was a green light, and about half a point on the port bow of the propeller.

17. Question. About how distant would you judge the light was then?

Answer. It is something I could not judge of very close; but I should think it was two or three miles off; somewheres about that.

18. Question. What order, if any, was given, and if any, by whom?

Answer. The mate gave an order to starboard a point.

108 19. Question. State whether that order was executed, and after it was executed, how the light of the Baensch bore?

Answer. It was executed, and the light bore half a point on the starboard bow.

20. Question. About how soon after the light was made was this order given?

Answer. I could not tell; it was soon after; but the length of time I could not tell.

21. Question. State whether or not the captain came on deck when you were watching this light.

(Objected to by counsel for libelant as leading.)

Answer. He did.

22. Question. What orders, if any, were then given to you?

Answer. The capt. gave me the order to go into the pilot-house and assist the wheelsman.

23. Question. What did you do in pursuance of this order?

Answer. I went into the pilot-house, and remained there until after the collision.

24. Question. After the order was given to starboard, and the light of the Baensch bore on your starboard bow, what change in its bearings, if any, did you observe before you left the lookout?

Answer. There was not much, if any change.

109 25. Question. If any change, what was it? State whether or not you opened the light any?

(Objected to by counsel for libelant.)

Answer. It opened the light a little.

26. Question. What was the light, green or red?

Answer. Green light.

27. Question. State what attention, if any, you gave the light after you left the lookout.

Answer. I gave the light no attention.

28. Question. What was the character of the night before and at the time of the collision?

Answer. It had been raining; at the time of the collision it was dark and clear; there was no fog.

29. Question. How long did you sail on the Richmond after the collision?

Answer. The remainder of the season.

30. Question. You may state whether your father was master of the propeller at that time.

Answer. He was.

Respondent rests.

Cross-examination by F. J. Dickman, counsel for libelants:

1. Question. When you say you had sailed a great deal prior to your employment on the propeller, in what capacity did you sail?

110 Answer. I went round with my father, in no particular capacity.

2. Question. Did you go for pleasure?

Answer. Yes, sir.

3. Question. Before you were employed on the propeller as watchman, had you sailed in any other vessel in the capacity of mariner?

Answer. No, sir.

4. Question. How many times had you been around with your father?

Answer. That is something that no one could tell. I had been around several times.

5. How many points are there in the compass?

Answer. Thirty-two, (32.)

6. Question. When you first saw the light of the Baensch, how long had you been at the lookout?

Answer. Since half-past six in the evening.

7. Question. What other lights, if any, did you see besides the light of the Baensch?

Answer. Two propeller lights.

8. Question. State what lights of the propellers?

Answer. Red lights.

9. Question. How did the propellers bear from the Dean Richmond?

111 Answer. Off our port bow; but I don't know how they bore.

10. Question. How far were the propellers then from the Baensch?

Answer. I could not tell.

11. Question. The propeller lights were the only lights you saw?

Answer. All I recollect of seeing now.

12. Question. What, if any, signal was given by the whistle of the Dean Richmond?

Answer. There was; but I don't recollect what they were.

13. Question. The Richmond blew more than one whistle, didn't she?

Answer. I don't know.

14. Question. You heard one whistle then?

Answer. Yes, sir.

15. Question. How many other lookouts were there on the propeller Dean Richmond besides yourself?

Answer. One, (1.)

16. Question. Who was he?

Answer. Putnam Richardson, I think, at that time.

17. Question. Where was he when you were at the lookout?

Answer. I don't know where he was; I guess he was turned in. It was his watch below.

18. Question. What did you say or do after you first made the light of the Baensch?

112 Answer. Stayed on deck till the captain sent me into the pilot-house. I don't know what I did say.

19. Question. How do you know the mate saw the light at the same time you did?

Answer. He spoke about it.

20. Question. To whom?

Answer. To me.

21. Question. Did you ever act as wheelsman in a propeller?

Answer. No, sir.

22. Question. How did you assist the wheelsman in the pilot-house?

Answer. Helping him at the wheel.

23. Question. How many wheelsmen were there on the Dean Richmond?

Answer. Two, (2.)

24. Question. What is the name of the man at the wheel whom you went to assist?

Answer. I don't recollect his name.

25. Question. How long had he been at the wheel when you went to help him?

Answer. Since eight (8) o'clock in the evening.

26. Question. Why did the captain direct you to leave the lookout and put another man in your place?

Answer. Because I was lookout; and he put the mate in my place; took the mate's place himself.

113 27. Question. How long was it after you first made the light of the Baensch before the lookout was changed?

Answer. I could not tell how long; it was a few minutes.

28. Question. How was the propeller heading when you first made the light of the Baensch?

Answer. I don't recollect.

29. Question. How was the propeller heading at the time of the collision?

Answer. I don't recollect that.

30. Question. Was the order, "Starboard a point," given before or after you went into the pilot-house?

Answer. Before I went into the pilot-house.

31. Question. How was the Baensch heading at the time of the collision, as near as you can tell?

Answer. I don't know. I was in the pilot-house.

32. Question. Did you, at any time, see the red and the green lights of the Baensch at the same time?

Answer. No, sir.

33. Question. When did you first see the red light of the Baensch?

Answer. I did not see it.

34. Question. What knot breeze was blowing when you first made the light of the Baensch?

Answer. I can't answer that question.

114 35. Question. How many miles an hour was the propeller going when you first made the light of the Baensch?

Answer. Between eleven and twelve.

36. Question. How long was it after you first made the light of the Baensch before the collision occurred?

Answer. I don't recollect.

37. Question. What orders, if any, were given the wheelsman while you were in the pilot-house?

Answer. I don't recollect what orders were given to him.

38. Question. When did you see your father last?

Answer. Last Thursday morning, about four o'clock. I took him down to the boat he is sailing.

39. Question. About the time of the collision how far from the Baensch were the approaching propellers whose lights you saw?

Answer. I could not tell you; I was in the pilot-house.

40. Question. At the time of the collision in what position was the helm of the propeller?

Answer. I don't recollect what position it was in.

41. Question. Did you hear an order to stop and back the starboard engine of the propeller?

115 Answer. I could not hear any order. I heard the wires rattle, but I could not tell which engine they belonged to.

42. Question. After you heard the wires rattle what, if any, orders were given to the man at the wheel?

Answer. I don't know.

43. Question. You remained with the man at the wheel up to the time of the collision, did you not?

Answer. Yes, sir.

44. Question. Did you hear any order given at any time on the propeller, after you made the light of the Baensch, to "port wheel?"

Answer. I don't recollect.

45. Question. How long was it between the order or signal of stopping the engine of the propeller & the collision?

Answer. I don't recollect the time.

46. Question. You say the mate gave an order to "starboard a point," and the order was executed. How do you know the order was executed?

Answer. Because I saw the wheelsman starboard the wheel.

47. Question. You were not then in the pilot-house, were you?

Answer. No, sir. I was standing in front of the pilot-house, & the window was down.

116 48. Question. You were then looking at the wheelsman, not at the light, were you?

Ans. I looked around at the wheelsman when the mate said "starboard."

49. Question. Do you know whether the propeller's wheels turned to starboard or port?

Answer. I don't know for certain. I think one turn each way.

50. Question. What was the wind at the time of the collision?

Answer. I don't recollect the direction of the wind.

51. Question. About how far was the propeller from the west shore at the time of the collision?

Answer. Somewhere between four (4) & five (5) miles, I should judge.

Direct examination resumed:

Question. Do you mean to say that the propeller sounded only whistle, or that you don't recollect whether she sounded one or more?

Answer. I don't recollect whether she sounded one or more.

2. Question. State whether before this you had frequently helped at the wheel, & how frequently.

Answer. I helped most every evening.

3. Question. After you left the lookout did you give any attention to lights outside?

Answer. I did not.

117 4. Question. Might not the Baensch have shown both lights or either light after you went into the pilot-house without you were noticing them or not?

Answer. Yes, sir.

5. Question. Which way from the Baensch were the propeller's lights, outside or inside of her?

Answer. Outside.

6th question. Was it any part of your business to notice the compass or courses of the vessel?

Answer. No, sir.

7. Question. After you went into the wheel-house were not changes of the wheel made which you do not now remember?

Answer. Yes, sir.

Cross-examination resumed:

1. Question. How many times were changes of the wheel made after you went into the wheel-house?

Answer. I don't recollect.

2. Question. Can you swear positively there were two (2) changes made?

Answer. No, sir. I could not swear how many were made.

3. Question. Can you swear there was one change made positively?

Answer. Yes.

Question. 4. What was that change?

118 Answer. I could not say.

5. Question. Do you mean to say you don't know?

Answer. I don't know what the change was.

6. Question. Was the change made without order given?

Answer. No, sir.

7. Question. Who gave the order?

Answer. The captain.

8. Question. Where was the captain when he gave the order?

Answer. On top of the pilot-house.

9. Question. You say you were helping at the wheel when that order was given; were you not?

Answer. Yes, sir.

10. Question. Yet you cannot recollect the order?

Answer. No, sir.

11. Question. When you were at the wheel did you give less attention to the orders of the captain than you did when at the lookout & the order was given "to starboard one point?"

Answer. Yes, sir.

12. Question. Have you ever studied particularly the points of the compass & the bearings of a vessel in reference to the points?

Answer. Not particularly.

W. D. BRETT.

(Endorsed:) Filed July 15th, 1868. W'm H. Bradley, cl'k.

119 *Deposition of J. W. Brett.*

Deposition of JULIUS W. BRETT, taken before Azariah T. Galt, a notary public, at Chicago, Illinois, in said district, on the 3rd of June, 1867, on the part of the respondent.

1st int. What is your name, age, occupation, and place of residence?

Ans. My name is Julius W. Brett; my age is fifty; I am a sailor; I live in Cleveland, Ohio.

2nd int. What are you master of now?

Ans. Propeller Colorado.

3rd int. State how long you have been master of a propeller on the lakes?

Ans. Twelve years.

4 int. How long of vessels & steamboats?

Ans. I have been master since 1844.

5 int. What was you master of on the 11 of Sept., 1866?

Ans. Propeller Dean Richmond.

6 int. Where was she about that time; where bound from and to; was she light or loaded; did anything in particular occur; when, where, & under what circumstances did it occur?

Ans. She left Milwaukee late in the afternoon of the 11th, bound to Chicago; she had part of her cargo aboard; she was neither light or loaded. A collision occurred about half-past ten by one time—Buffalo time; about a quarter of ten by Chicago time. We were about

120 twenty miles from Chicago when it occurred, and I should say

about five miles from the shore. When I came on deck I saw the schooner's green light about a half a point on the starboard bow, and another green light about a point to the westward. I saw a propeller's red and bright light about a point and a half on the port bow; also another propeller to the westward of him about a half a point or a point. We were then steering south-southeast. We had not been steering in that direction more than three minutes. I had been on deck from the time the vessel left Milwaukee until within two or three minutes of the time this light was first discovered. We were then steering S. by east. I went into the cabin and took a drink of water, and was not gone to exceed five minutes, when I came out on deck again. The mate reported we had made a schooner or vessel's green light a half a point on the port bow, and that he had kept the propeller off a point, which made her head south-southeast, and brought the vessel's light a half a point on the starboard bow. I went on top of the cabin deck, in front of the pilot-house, where I could see all around—there was nothing to obstruct my view at all—and told the man at the wheel to keep her southeast by
121 south, so as to give the vessel plenty of room, he still showing his green light. He must have been off, as near as I can judge, about two miles. We had not been running but a short time in that position before I saw both of the vessel's lights—red and green; then she hid the red light again. She did this some three different times—twice in particular; & then, the third time, (I was on top of the pilot-house then,) she shut the green light out. I immediately stopped both engines of the propeller, and backed the starboard engine, which was backing when we came together.

7th int. When you first saw the green light on the schooner did you see any lights to the windward of you, and how near was it to the schooner's light, and what kind of a light was it?

Ans. I saw another green light; I should judge it was a half to three quarters of a mile off from the other vessel, to windward.

8 int. When you first saw the green light why did you not put your vessel to the westward?

Ans. Because when I saw the green light I knew the vessel's starboard side was towards me, and I should be running across their bows. I could not tell whether they were steering directly towards me, or were close-hauled on the wind.

122 9 int. Did you make any signals with your whistles; if so, what whistles; and if you did not, why didn't you?

Ans. I did not make any, because I was afraid that the propellers would think I was signaling them, and the signal that would be right to give the vessel notice that I was going to pass on her starboard side would indicate the same to the propellers, which might cause a collision between the propellers & me.

10 int. Was there or not any danger of a collision between you and the schooner until she shut out the green light?

Ans. There was no danger if her green light was on the proper side.

11th int. You heading as you say you were when you came on deck, & when you first saw the schooner's light, and you seeing her green light, how must she, the schooner, have been heading?

Ans. About north-northwest, or to the westward, always providing that the green light was on the right side.

12 int. What reason would the schooner have had for heading in the direction you have stated on that night, & in that place?

(Question objected to by Mr. Waite as irrelevant & incompetent.)

123 Ans. The wind being west-southwest, and the vessel light, or nearly so, would naturally want to hold the shore on board, which she could not have done five miles from shore steering to the northward of that; that is, she would be getting further off until she got in the vicinity of Racine.

13 int. What objection would there be to her getting out in the lake?

(Question objected for the same reason as above.)

Ans. She would find considerable more sea.

14 int. What kind of a night was it; how stormy was the wind, and what kind of a sea was on the lake?

Ans. Had been raining; at the time of the collision it was tolerable clear; there was some flying clouds. There was a stiff, whole*sale* breeze, rather more than some people would carry all the canvas to. The sea was not very heavy, the wind being off the land, & we were only about five miles from land.

15 int. Would a vessel like the Baensch, with a full head of sail, the wind off the land, a little forward of the beam, likely to be under proper control of her helm?

Ans. Yes.

16 int. If the wind was puffy would she be likely to be yawing much?

124 Ans. She might come up a little against her helm.

17 int. After you first saw her green light how long was it before you saw her red light; & what distance was she from you when you first saw her red light; how long did she show her red light; and when did she close out her red light?

Ans. I should think it was three to four minutes, as near as I can judge, from the time I first saw her green light before I saw her red lights. When I first saw her red light I should think she was a mile off. It is hard judging distance in the night. She showed her red light but a few seconds at a time, and then showed the green one twice in succession; and the third time she showed her red light it continued in sight until the collision occurred.

18 int. At the time she showed her red light, except the last time, was her green light also visible?

Ans. It was visible a portion of the time, but would go out. When a vessel is heading towards you you can see both of her colored lights; but when she deviates from that she will shut out one *of* the other.

19 int. How long had you been backing when the collision occurred; & how long, after you had seen the green light entirely shut out

125 was it that you rung the bell to stop and back?

Ans. Probably 20 or 30 seconds. I had been backing when the collision occurred. I rung the bell immediately to stop and back when the green light went out of sight.

20 int. Where was it that she struck you?

Ans. Our stem came in contact with her port bow, and there was as much her striking us as we striking her.

21 int. Was your bow swinging at the time, and if so, how was she swinging?

(Question objected to by Mr. Waite as leading.)

Ans. I don't think she was swinging. I did not notice particularly.

22 int. How was the schooner heading at the time of the collision?

Ans. I should about north by east, & we were heading about southeast by south, or southeast half south.

23 int. Were you so situated that you could see either of your compasses?

Ans. Yes.

24 int. Which one did you see?

Ans. I could see either of them. I generally looked at the starboard one.

25 int. How were you' lookouts situated; who were they; what consultation had you with them after they reported the light, & what was done by them?

126 Ans. They were stationed on the deck forward. My son was one of them, William B. Brett, & the first mate. I sent the lookout in to the wheel to assist the wheelsman, & told themate to look ou' and I would take charge of the vessel.

26 int. Did the mate go to his post?

(Question objected to as leading.)

Ans. He stood out foward of the capstan.

27 int. State if the mate had any conversations with you during the time he was on the lookout?

Ans. He reported the vessel changing her lights to me.

28 int. State whether those in pilot-house at the wheel were so situated that they could have an unobstructed view forward of approaching vessels?

(Question objected to as leading, by Mr. Waite.)

Ans. Yes; they had an unobstructed view.

29 int. What kind of a place is the wheel-house on board of this propeller for a lookout when stationed in the pilot-house at the wheel; and what kind of a place is it when stationed on the pilot-house for a lookout?

Ans. There is a good view from the pilot-house window from two points abaft the beam, around forward to two points abaft the
127 beam on the other side, and an unobstructed view all around from the top of the pilot-house.

30 int. Was there a time when, after you first saw the schooner's light, that you did not see her light till the collision occurred?

Ans. There was no time but what I saw one or the other of the lights, or both.

31st int. If the schooner was a half point on your lee bow, & to the south of you, and heading north and a little west, would it have been good seamanship in you to have attempted to have gone to the westward, there being another vessel showing the same light to the windward of her and near her; and if two propellers coming the same direction as herself, or nearly so, were about abeam of her to the leeward of her, & from a quarter to a half a mile of her, would it have been good seamanship to have gone to the east or leeward of the schooner, or would it have been better seamanship to have stopped your propeller so situated and waited till all have passed you?

(Question objected to by Mr. Waite as leading, incompetent, and calling for an opinion.)

Ans. In the first place, the vessel could not have been to the leeward and south of us, we heading south-southeast at the time I took charge.

128 (Mr. Rae withdraws the balance of the question.)

32 int. When you first saw the schooner to the south and west of you, and saw the light of another sailing vessel to the windward of her, and near to her, would it have been good seamanship for you to have gone to the westward of her, you holding at the time south-southeast?

(Question objected to by Mr. Waite as leading & incompetent.)

Ans. It would not.

33 int. Why would it not have been good seamanship?

Ans. Because it would be running across her bows.

34 int. Suppose she was going at the rate of eleven knots an hour, with what safety could you have attempted to cross her bows when you first saw her?

Ans. I could not have attempted it all. I would not have tried to attempt it.

35 int. With two propellers to the leeward of her, a quarter to a half a mile abeam of her, would it have been good seamanship to have changed her course to the eastward any more than you did; and if not, why not?

(Question objected to by Mr. Waite, for the same reasons as the last.)

129 Ans. It would not have been good, because the rules that are laid down for us in sailing steam crafts forbid us to take the wrong side.

36 int. After you had changed your course to the eastward to avoid the schooner, was your course again changed?

Ans. Not after the last time of changing it.

37 int. Did your vessel at any time after you first saw the schooner change her course westward of the course you first put her on?

Ans. Not till after the collision.

38 int. After you had changed your vessel's course to the eastward, could a collision have occurred with the schooner unless the schooner changed her course?

Ans. Not without her lights were on the wrong side. If her green light was on the starboard side it could not have occurred if she had not changed her course.

39 int. What would have been the probable consequence if you had stood still when you first saw her light?

Ans. The probability is, he would have run into us somewhere, the way he was maneuvering his vessel.

40 int. Do you know of anything that could have been done on board of your propeller at any time to have avoided the collision which was not done?

130 I do not.

41 int. Is there anything connected with this collision which you have not stated which you desire to state?

Ans. I don't know of anything.

42 int. State, in your opinion, what caused this collision, and give your reasons for such an opinion?

(Question objected to, as incompetent.)

Ans. It was caused, in my opinion, by the vessel changing her course and running across our bows.

Cross-examination by Mr. Waite:

1 x-int. How long was it from the time you came on deck till the collision occurred?

Ans. I should think five or six minutes, as near as I can judge; I might be mistaken in a few minutes either way.

2 x-int. How was the propeller heading when you came on deck?

Ans. South-southeast.

3 x-int. Suppose the helm of the propeller to have been so put as to cause the propeller to head to the east-southeast, & she kept steady in that direction, & suppose the Baensch steered as you say she was, which side of the Baensch would the propeller have gone?

131 Ans. I could not tell you. It would be a hard matter to tell. In the first place, I could not tell scarcely how they were steering the Baensch, and then, I would not have attempted to steer east-southeast on account of the propellers to the leeward of me and the Baensch; I would have run across their bows.

4 x-int. How many propellers were there to the eastward of the Baensch?

Ans. Two, in sight.

5 x-int. How many vessels were there to the westward of the Baensch?

Ans. One.

6 x-int. What was that, and how far off from the Baensch?

Ans. A sail vessel, & I should judge from a half to three-quarters of a mile off.

7 x-int. How did this sail vessel bear from the Baensch when you first saw the Baensch, and how did she bear from you?

Ans. Could not tell how she bore from the "Baensch;" from us she bore about south half east.

8 x-int. Then you say there was no propellers to the eastward of the Baensch?

Ans. I did not say so.

9 x-int. Then you say there were propellers to the westward of the "Baensch."

132 Ans. I did'nt see any.

10 x-int. How far off was the Baensch when you first saw her?

Ans. I should judge about four miles, as near as I can judge.

11 x-int. How far off was the sail vessel which you say was to the westward of the Baensch when you first saw the light of the Baensch?

Ans. The lights appeared to me to be about the same distance.

12 x-int. Judging from the lights, how far to the westward was the sail vessel from the Baensch?

Ans. I should judge from a half to three-quarters of a mile.

13 x-int. How far were you from the shore?

Ans. I judged about five miles.

14 x-int. How were each of the propellers heading when you first saw the Baensch?

Ans. I could not answer positively; to the northward & westward.

15 x-int. How was the sail vessel which you say was to the westward of the Baensch heading by her lights?

Ans. She was heading to the northward & westward. I can not tell to a point how a vessel is heading; I saw her green light. You can

133 see her green light from two points abaft the beam to straight ahead.

16 x-int. What lights of the propellers did you see?

Ans. The bright and red light on each of them.

17 x-int. How far to the eas'ward were the propellers from the Baensch?

Ans. They appeared to me about a mile and a half when I first came on deck; that was the inside one, and the outside one a quarter of a mile further off. At the time of the collision I could hear them speak on board of the nearest propeller.

18 x-int. Suppose when you came on deck, the helm of the propeller had been so put as to head the propeller to the west-southwest, & she kept steady on that course, which side of the Baensch would you have gone?

Ans. I could not tell; she might not have gone on either side; there would have been a probability of colliding with one of the other vessels.

19 x-int. Suppose your helm had been so put, when you first saw the "Baensch," so as to head the propeller due east, and the propeller kept steady on her course, would the collision with the Baensch have occurred?

Ans. I think not.

134 20 x-int. From the time you saw the "Baensch" till the collision occurred, how many points did she change her course, either to the east or to the west?

Ans. I could not tell; I did not see her compass.

21 x-int. From the time you saw the Baensch till the collision occurred, how often did you see the green light of either of the propellers?

(Question objected to by Mr. Rae as misleading the witness; he has not said so.)

Ans. I did not see them at all.

22 x-int. When you first saw the "Baensch," how did the inside propeller bear from your propeller?

Ans. About southeast to half south, or southeast by south.

23 x-int. Should you judge that that propeller or either of them changed their course from the time you saw the light of the "Baensch" till the collision occurred?

Ans. I should judge not.

24 x-int. How did the eastward propeller bear from your propeller when you first saw the lights of the "Baensch?"

Ans. She was about a half a point to the eastward of the other one.

25 x-int. How far off was the nearest propeller when the collision occurred?

135 Ans. I should judge inside a quarter of a mile; I could hear them hallow.

26 x-int. How far was the sail vessel off when the collision occurred?

Ans. I could not tell; I did not pay any attention to her then; I was engaged in getting the crew off the boat.

27 x-int. How far would you think she was off?

Ans. I should think from 3½ to 4 miles to the westward of us at the time of the collision.

28 x-int. If, then, your propeller had headed a little further to the westward, and the "Baensch" had have steered just as you say she did, you would have gone to the westward of the "Baensch," would you not?

Ans. How did I say she steered?

29 x-int. The way you have sworn she steered in the deposition, where you give the bearings of her lights from your propeller.

Ans. Yes; if we had kept more to the westward, we would have gone clear of her probably, but I did not know in time that she was going to change her course as she did.

(The last part of the answer objected to by Mr. Waite, as not responsive to the question.)

136 30 x-int. How long was it from the time that you ordered the mate to the lookout and the lookout to the helm till the collision occurred?

Ans. I should not think it was over a minute and a half, & might not have exceeded a minute.

31 x-int. How did the other vessel then bear from the propeller?

Ans. I should judge south-southwest, or southwest; I did not pay much attention to her, for I knew she was out of my way.

32 x-int. How did the Baensch then bear from the propeller, and what light did the Baensch then show?

Ans. I should think the Baensch bore about south from us; at that time she began to show different lights, first red, then green, then both, and then green again, and then red; she kept changing,

33 x-int. How many knot breeze was it?

Ans. I should judge about eight or nine knot breeze.

34 x-int. Steady or puffs?

Ans. The wind was puffy.

35 x-int. How many knots was the propeller going?

Ans. Nine or ten miles an hour.

36 x-int. From the time that you ordered the lookout to the
137 helm till the collision occurred, what changes, if any, was made in the helm of the propeller till the collision occurred?

Ans. It was put to starboard a little, & then brought back to port.

37 x-int. How much to starboard?

Ans. Enough to swing her about a half a point to the eastward.

38 x-int. How much to the port?

Ans. Enough to steady her when she was there.

39 x-int. When you say you port your helm a little to the starboard, which way would that throw the vessel, heading as you were?

Ans. To the eastward.

40 x-int. How far would your propeller go after her engines were stopped & backed, before she would commence to back, going with the speed you were?

Ans. I should think about a quarter of a mile; I never tried the experiment.

41 x-int. What part of your vessel struck the Baensch?

Ans. I don't know which struck first; she was going as fast as we were.

42 x-int. How much faster?

Ans. She was going three miles to our one.

43 x-int. What part of the propeller's bow came in contact with the Baensch?

138 Ans. Her stem.

44 x-int. What do you mean by the stem?

Ans. The cut-water.

45 x-int. Whereabouts on the Baensch did the stem of the propeller strike?

Ans. I don't say that the propeller struck the Baensch at all.

46 x-int. What part of the Baensch did the stem of the propeller come in contact with?

Ans. The port bow, somewhere near the fore-rigging; could not say exactly.

46 x-int. Can you say at what angle or nearly at what angle they came together?

Ans. It would be an angle about four points and a half—that would be the acute, & the obtuse would be 11½ points; the acute angle would be on the propeller's port bow and the schooner's port bow.

48 x-int. Will you swear that the acute angle was not six points?

Ans. Yes.

49 x-int. Will you swear that the angle on the propeller's port bow was not five points?

Ans. No.

50 x-int. Will you swear that the angle on the propeller's port bow was not more than three points?

Ans. I will not.

139 51 x-int. Will you swear to your best recollection & belief, it was four points and a half?

Ans. Yes.

52 x-int. Could you, from your position on the pilot-house at the time the collision occurred, see the hull of the Baensch?

Ans. Not all of it.

53 x-int. How long was it after you went on the pilot-house before the collision occurred?

Ans. I should judge about a minute.

54 x-int. When you were on the pilot-house could you see the compass at all.

Ans. Yes; both of them.

55 x-int. How long was it after you came on deck before you ordered the mate to the lookout, & the lookout to the helm?

Ans. About a minute to a minute and a half. I went onto the pilot-house as soon as I ordered the change to be made.

56 x-int. How many lookouts had you on the propeller at the time the collision occurred?

Ans. Two; William Dickson Brett & Richardson.

57 x-int. How many lookouts were there on the propeller actually engaged as lookouts when you first made the lights of the Baensch?

Ans. There was one.

140 58 x-int. How long was it, after you rung the bell to stop the engine, before the collision occurred?

Ans. I should judge about a half a minute.

59 x-int. What position was your helm in at the time you commenced to back your starboard engine?

Ans. It was about midships.

60 x-cross int. Was any change made in the helm from the time you commenced to back the starboard engine till the collision occurred.

Ans. No.

61 x-int. How long had your helm been in that position when you commenced to back your starboard engine?

Ans. Probably about a half a minute. It might have been more, a spoke or two each way.

61 x-int. How long previous to your commencing to back your starboard engine, did you perceive the danger of the collision?

Ans. Just long enough to ring to stop them—both engines—and back.

62 x-int. How long would that take?

Ans. About five or six seconds.

63 x-int. Did you make any signal of any kind when you discovered the danger of the collision to the Baensch?

Ans. No.

141 Reëxamination by Mr. Rae:

1 int. Could you or could you not have headed further to the east, after seeing the schooner's light, than you did without the risk of a collision with the propellers.

Ans. No.

2 int. After you changed your course to the eastward, after seeing the schooner's light—her lights being properly placed—could a collision have occurred between you and the schooner unless she changed her course to the eastward?

Ans. Certainly could not.

3 int. Who else was looking out, prior to the collision, beside the lookout?

Ans. The mate and myself.

4 int. Did the mate have anything else to do but look out?

Ans. Nothing.

5 int. State how the lights of your propeller were placed?

Ans. A bright light on the masthead; a green light on the starboard side, and a red light on the port side.

Re-cross examination by :

1 x-int. You say you changed your course to the eastward after making the lights of the "Baensch." If you had not changed
142 your course to the eastward, but kept straight on in the course you were steering, when you first made the light of the "Baensch," would any collision have occurred, in your judgment?

Ans. If both vessels had continued on the same course they were going there would have been danger of collision. I cannot state positively there would have been a collision.

J. W. BRETT.

(Endorsed:) Filed June 1, 1868. W'm H. Bradley, cl'k.

143 On this day, to wit, the twenty-sixth day of July, A. D. 1869, came Nathan C. Winslow and Hezekiah J. Winslow, claimants, and filed in the said clerk's office their bond for appeal in the above-entitled cause, which said bond for appeal is in the words and figures following, to wit:

Appeal bond.

United States district court for the northern district of Illinois, in admiralty.

ELISHA B. DEAN AND JOEL TAYLOR
vs.
PROPELLER DEAN RICHMOND.

Whereas an appeal has been taken from the decree of this court, made on the 19th day of July, in the year of our Lord one thousand eight hundred and sixty-nine, in a certain cause wherein Elisha B. Dean and Joel Taylor are libelants, against The Propeller Dean Richmond, her engines, boiler, and machinery by the claimants, Nathan C. Winslow and Hezekiah G. Winslow.

Now, therefore, the stipulaters undersigned hereby stipulate, in the sum of twenty-two thousand dollars, to pay all damages and costs which shall be awarded against the said appelants by the final decree rendered by the appelate court.

144 NATHAN C. WINSLOW.
H. J. WINSLOW.
HENRY C. WINSLOW.
W. M. EGAN.

Taken and acknowledged this 24th day of July, A. D. 1869, before me—

[SEAL] D. V. BENEDICT,
Notary Public for Erie Co., State of New York.

Ans. I will not.

139 51 x-int. Will you swear to your best recollection & belief, it was four points and a half?

Ans. Yes.

52 x-int. Could you, from your position on the pilot-house at the time the collision occurred, see the hull of the Baensch?

Ans. Not all of it.

53 x-int. How long was it after you went on the pilot-house before the collision occurred?

Ans. I should judge about a minute.

54 x-int. When you were on the pilot-house could you see the compass at all.

Ans. Yes; both of them.

55 x-int. How long was it after you came on deck before you ordered the mate to the lookout, & the lookout to the helm?

Ans. About a minute to a minute and a half. I went onto the pilot-house as soon as I ordered the change to be made.

56 x-int. How many lookouts had you on the propeller at the time the collision occurred?

Ans. Two; William Dickson Brett & Richardson.

57 x-int. How many lookouts were there on the propeller actually engaged as lookouts when you first made the lights of the Baensch?

Ans. There was one.

140 58 x-int. How long was it, after you rang the bell to stop the engine, before the collision occurred?

Ans. I should judge about a half a minute.

59 x-int. What position was your helm in at the time you commenced to back your starboard engine?

Ans. It was about midships.

60 x-cross int. Was any change made in the helm from the time you commenced to back the starboard engine till the collision occurred.

Ans. No.

61 x-int. How long had your helm been in that position when you commenced to back your starboard engine?

Ans. Probably about a half a minute. It might have been more, a spoke or two each way.

61 x-int. How long previous to your commencing to back your starboard engine, did you perceive the danger of the collision?

Ans. Just long enough to ring to stop them—both engines—and back.

62 x-int. How long would that take?

Ans. About five or six seconds.

63 x-int. Did you make any signal of any kind when you discovered the danger of the collision to the Baensch?

Ans. No.

141 Reëxamination by Mr. Rae:

1 int. Could you or could you not have headed further to the east, after seeing the schooner's light, than you did without the risk of a collision with the propellers.

Ans. No.

2 int. After you changed your course to the eastward, after seeing the schooner's light—her lights being properly placed—could a collision have occurred between you and the schooner unless she changed her course to the eastward?

Ans. Certainly could not.

3 int. Who else was looking out, prior to the collision, beside the lookout?

Ans. The mate and myself.

4 int. Did the mate have anything else to do but look out?

Ans. Nothing.

5 int. State how the lights of your propeller were placed?

Ans. A bright light on the masthead; a green light on the starboard side, and a red light on the port side.

Re-cross examination by :

1 x-int. You say you changed your course to the eastward after making the lights of the "Baensch." If you had not changed
142 your course to the eastward, but kept straight on in the course you were steering, when you first made the light of the "Baensch," would any collision have occurred, in your judgment?

Ans. If both vessels had continued on the same course they were going there would have been danger of collision. I cannot state positively there would have been a collision.

J. W. BRETT.

(Endorsed:) Filed June 1, 1868. W'm H. Bradley, cl'k.

143 On this day, to wit, the twenty-sixth day of July, A. D. 1869, came Nathan C. Winslow and Hezekiah J. Winslow, claimants, and filed in the said clerk's office their bond for appeal in the above-entitled cause, which said bond for appeal is in the words and figures following, to wit:

Appeal bond.

United States district court for the northern district of Illinois, in admiralty.

ELISHA B. DEAN AND JOEL TAYLOR
vs.
PROPELLER DEAN RICHMOND.

Whereas an appeal has been taken from the decree of this court, made on the 19th day of July, in the year of our Lord one thousand eight hundred and sixty-nine, in a certain cause wherein Elisha B. Dean and Joel Taylor are libelants, against The Propeller Dean Richmond, her engines, boiler, and machinery by the claimants, Nathan C. Winslow and Hezekiah G. Winslow.

Now, therefore, the stipulaters undersigned hereby stipulate, in the sum of twenty-two thousand dollars, to pay all damages and costs which shall be awarded against the said appelants by the final decree rendered by the appelate court.

144

NATHAN C. WINSLOW.
H. J. WINSLOW.
HENRY C. WINSLOW.
W. M. EGAN.

Taken and acknowledged this 24th day of July, A. D. 1869, before me—

[SEAL] D. V. BENEDICT,
Notary Public for Erie Co., State of New York.

UNITED STATES OF AMERICA, *ss:*

Northern district of Illinois.

Wiley M. Egan, party to the above stipulation, being duly sworn, deposes and says, that he is worth the sum of twenty-five thousand dollars over and above all just debts and liabilities.

WILEY M. EGAN.

Sworn and subscribed to this 26th day of July, A. D. 1869, before me—

[SEAL.] W'M L. MITCHELL,
Notary Public.

Approved by—

WAITE & CLARKE,
Proctors for Libelants.

(Endorsed:) Filed July 26th, 1869. W'm H. Bradley, cl'k.

145 NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the district court of the United States for said district, do hereby certify the above and foregoing to be a true, correct, and complete transcript of the record of all the proceedings had in said court in said cause, wherein said Elisha B. Deane, et al., are libelants, and the said propeller, Dean Richmond, is respondent, as the same appears of record remaining in my custody.

In testimony whereof I have hereunto set my hand, and affixed the seal of said district court, at my office, in the city of Chicago, in said district, this fifth day of August, A. D. eighteen hundred and sixty-nine, and of our independence the ninety-fourth year.

[SEAL.] W'M H. BRADLEY, *Clerk.*

(Endorsed:) Filed August 5th, 1869. W'm H. Bradley, clerk.

146 DEAN.
vs.
THE DEAN RICHMOND.

Deposition of D. Dall, Sept. 17, 1869.

ELY, BURNHAM & BARTLETT,
Official Reporters to the Courts of Chicago.

147 *Dep. of Dall.*

1. Q. What is your name, age, residence, & occupation?

A. My name is David Dall; I am 47 years of age; live in Chicago, & am a marine inspector.

2. Q. How long have you lived in Chicago, captain?

A. Well, I have been here 12 years—I may say 20 years, backward & forward. I lived in Racine a few years.

3. Q. You have been marine inspector for how many years?

A. I was marine inspector for 6 years for the mercantile.

4. Q. Have you been acquainted with the values of vessels during that time?

A. I have tried to keep myself posted with regard to taking the insurance, & one thing & another.

5. Q. Did you know the schooner "Baensch?"
A. Yes, sir.
6. Q. Did you know her in 1865 & 1866?
A. I examined her here in 1865, when she was here, laying in the river, some time during the fall of 1865.
7. Q. Why did you examine her in the fall of 1865?
A. I wanted to purchase her.
8. Q. What was her value then; what did you consider her value then?
(Objected to as incompetent & irrelevant.)
9. Q. What was she worth at that time?
148 A. I think that she would be worth $7,500, in the rig that she was in then.
10. Q. Did you see her in 1866?
A. I did.
11. Q. What would you say her value was, any time about August, 1866—August or September?
A. It would not be over $8,000. The rigging was made up a little better—she had a new foremast & a better rig.
12. Q. Was she worth $8,000 in cash?
(Objected to.)
A. I think it would be pretty tough to get $8,000 for her then in cash. I don't think she was. I don't think that I would give it for her, though people might. Vessels were excited considerable, & in that year you might get a little more than the actual value of the vessel.

Cross-examination by H. F. Waite, esq.:

X 1. Q. You put the first value you have given upon her before her rigging was changed?
A. Yes, sir; I think she was worth more after she was changed. She had new masts, & the rigging was more desirable & more profitable for the owners, or whoever owned her, & I presume, of course, she would have new foresails, &c., which would make her more valuable.
149 X 2. Q. The cost of making those changes should be added to her value, over that of 1865, should it not?
A. Yes, sir; I don't think the hull was materially injured. It was a pretty good hull. My examination was pretty close, & I think $500 would be sufficient to make the change. She would be $500 better with the fore & aft rig, than with a square rig.
X 3. Q. She would be that much better that it cost to make the change?
A. Yes, sir.
X 4. Q. Whatever the cost was?
A. I don't know what the cost was. I know the change would not be a great deal. It may have been $200. Foresail & rigging would not exceed $500.
X 5. Q. Didn't she have all new rigging?
A. Her rigging was good she had—it was not old.
X 6. Q. Didn't she have new sails added after 1865?
A. She would only require a new foresail.
X 7. Q. Were not new sails entirely added after 1865?
A. I don't know they were. The mainsail would not make any difference in her value, but they would have to make a new foresail.
X 8. Q. If new sails were added after 1865, it would go to increase her value?

A. Of course it would.

150 X 9. Q. If new rigging were added after 1865, that would go to increase her value?

A. Yes, sir.

X 10. Q. And so would new spars?

A. Yes, sir.

X 11. Q. You don't know what was laid out on her after 1865?

A. I don't know, exactly, whether she had a new mainsail or not.

X 12. Q. Your first estimate was made on the condition she was in before she was changed?

A. Yes, sir.

X 13. Q. Were not vessels higher in 1866 than in 1865?

A. Yes, sir; in the month of July they commenced to run up.

X 14. Q. How much percentage were they higher in 1866 than in 1865?

A. Well, I don't know; wouldn't go a great deal if a man wanted to purchase; I know I purchased a vessel that same year—a good deal larger vessel, & I think a good deal better, "The Twin Sisters," for $8,000; $6,000 cash, & the balance that fall.

X 15. Q. Answer the question, & tell me the percentage of advance between 1865 & 1866?

A. I couldn't exactly say how much would go to make that, because some were sold of course low, & some high, & it depended on the

151 time; but I don't think it would go—no, sir, I don't think there was a great deal of change.

X 16. Q. You don't think there was any change?

A. There was not a great deal sold—very little property changed hands in 1866.

X 17. Q. Were they not valued higher in 1866 than in 1865?

A. Not under the inspection.

X 18. Q. Didn't vessel-owners value them higher?

A. Yes, sir; I presume they would fetch more if they wished to sell them—they might fetch a little more.

X 19. Q. Make an estimate on the value of vessels; that they were higher in 1866 than 1865?

A. They might go 2 per cent. higher, but I don't think it; I don't think they would go over it.

X 20. Q. You pretend to say that a ten thousand vessel, in 1865, was not worth more than ten thousand two hundred in 1866?

A. Not to exceed two hundred dollars, ($200;) I don't think they would go over that; I know I purchased The Twin Sisters in the same time.

Signature to the above deposition is waived, by agreement of counsel.

(Endorsed:) Filed July 6, '70. W'm H. Bradley, cl'k.

152 *Depositions of Alex. McKirdy.*

Depositions of Alexander McKirdy and Thomas E. Miller, taken September 29th, 1869, before William H. Condon, esq., notary public, at Chicago, Illinois, on behalf of respondent:

And the said ALEXANDER MCKIRDY, being by me first carefully examined, cautioned, & sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

Int. 1. What is your name, age, residence, and occupation?

A. Alexander McKirdy; age 40; live in Chicago; marine inspector; been marine inspector four years.

Int. 2. How long have you been acquainted with vessels here in Chicago?

A. Since 1849.

Int. 3. What has been your business during that time?

A. Sailing vessels on the lakes, up to the time I became marine inspector.

Int. 4. Were you acquainted with the value of vessels, in 1866, here in Chicago?

A. I was, all along about that time.

Int. 5. Was it your business at that time to examine vessels as to their condition and value?

A. It was.

153 Int. 6. Did you know the schooner Baensch in 1860?

A. I did, but was not particularly acquainted with her; have seen her a hundred times going in and out port.

Int. 7. When did you examine her as marine inspector, if at any time?

A. I never did.

Int. 8. Do you know what she was valued at on the books of the Mercantile Mutual Insurance Company of New York in 1866; and if so, what?

(Objected to as incompetent, and not being the best evidence, and irrelevant, by Mr. Waite.)

A. She was classed B 1; valued forty-five hundred, gold basis.

Int. 9. Were you marine inspector for the Mercantile Mutual Insurance Company of New York at that time?

A. I was.

Int. 10. Did you take this valuation from the general inspection books?

(Objected to as incompetent and irrelevant, and not the best evidence.)

A. I did.

154 Int. 11. Do you know what time in 1866 this valuation was made?

A. In the winter and spring of 1866; it is made out and reported after April.

Int. 12. From your knowledge and experience in the values of vessels, what would you say that the schooner Baensch was worth the first of September, 1866, or about that time?

(Objected to as incompetent and irrelevant.)

A. She was worth in the neighborhood of about seven thousand dollars.

Cross-examination by Mr. Waite:

Int. 1. How many times have you been on board of the Baensch to examine her.

A. Never examined her.

Int. 2. When was she built?

A. In 1857; don't know where.

Int. 3. Have you any knowledge of when she was built, except what you derived from books?

155 A. No, except what I got from the inspection books.

Int. 4. How old were her sails?

A. Don't know; I never examined them.

Int. 5. How was she supplied with anchors?

A. I don't know. The sides of the vessel were all right. I don't know about those things. I never was aboard of her legally to inspect her.

Int. 6. Was you ever under the dock of the vessel?

A. No, sir.

Int. 7. In which year was vessel property worth the most, in 1865 or 1866?

A. In 1866.

Int. 8. How much was laid out on her during 1865?

A. I don't know what amount.

Int. 9. What was done on her in 1865 or 1866, before the collision?

A. In August, 1865 or 1866, she had new spars and new bows. Don't know what condition her canvas was in.

Int. 10. What per cent. was vessel property worth more in 1866 than in 1865?

A. I can't tell exactly.

Int. 11. About how much?

156 A. I don't know exactly, as I said before.

Re-direct:

I went aboard the Baensch after her collision with the Cross in 1865.

1 Int. By whom was the valuation of the schooner Baensch made, in 1866?

A. By the general inspector for all the insurance companies.

Is the valuation which you fixed upon the Baensch derived from your knowledge of the value of that grade and size of vessel, or what was your valuation derived from?

(Objected to as incompetent and irrelevant.)

A. Partially from the inspection books, and more from her age, size, and class.

ALEX. McKIRDY.

Subscribed & sworn to before me this 29 day of September, A. D. 1869.

W'M H. CONDON,
Notary Public.

156 *Dep. of T. E. Miller.*

And the said THOMAS E. MILLER, being by me first carefully examined, cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

1 int. What is your name, age, residence, and occupation?

A. Thomas E. Miller; age, 35; live in Chicago; am a ship-carpenter; have been a ship-carpenter since 1849; have owned dock yard here since 1857 or 1858.

Int. 2. Are you acquainted with the value of vessels, and were you here in Chicago, in 1866?

A. I am, and was then.

Int. 3. Were you acquainted with the schooner Baensch in 1866, and how long had you known her?

A. I was, but could not say how long exactly, probably four or five years.

Int. 4. Did you ever overhaul or repair the schooner Baensch at your yard; if so, when and what did you do to her?

A. We did repair her, I think in 1865. We made new spars
158 for her and repaired her otherwise of damages she sustained in a collision.

Int. 5. Were you acquainted with the schooner Baensch in 1866, as to her value?

A. No more than any other vessel.

Int. 6. From your acquaintance with the schooner Baensch, what would you say her value was in 1866, say about the first of September?

A. According to the value of vessels then, I should say the schooner Baensch was worth about nine thousand dollars.

THO'S E. MILLER.

Subscribed & sworn to before me this 29th day of , 1869.

W'M H. CONDON,
Notary Public.

Filed April 30th, 1870. W'm H. Bradley, c'lk.

159 *Deposition of John Brindiville.—July 6th, 1870.*

1. Q. What is your name, age, and occupation?

A. John Brindiville; age, 45; occupation, marine inspector.

2. Q. How long have you been engaged in that business as marine inspector?

A. I have been marine inspector since 1866.

3. Q. How long have you been here in Chicago?

A. I have been here in Chicago since 1837.

4. Q. Have you been engaged in the vessel business most of the time?

A. Since I was old enough to do so. I commenced sailing out of here at the age of eleven.

5. Q. You are well acquainted with vessels, are you?

A. I suppose I am.

6. Q. And with their values?

A. Yes, sir.

7. Q. Were you acquainted with the schooner Baensch in 1866?

A. Yes, sir.

8. Q. Do you know what she was valued at by the marine inspector at that time—in the spring of 1866?

(Objected to as incompetent and immaterial.)

A. Our valuations are gold valuations. At that time she was
160 valued at $4,500, gold valuation.

9. Q. What time was that valuation made?

A. It was made between the first of January, and the first of April. I know we were inspecting during that time until the first of April, but I don't know during that time what day the Baensch was inspected and valued. It was between the first of January and first of April, 1866.

10. Q. What would you say her valuation was, in currency, at that time?

(Objected to as incompetent and immaterial, and it not appearing that the witness was personally acquainted with her value.)

11. Q. You said you were acquainted with the schooner Baensch?

A. Yes, sir.

12. Q. What should you say her value was, in currency, at that time?

A. Do you mean cash value?

13. Q. Yes; cash value.

A. I suppose the vessel would sell for $6,000 or $7,000.

Cross-examination by M. Clark:

161 X 1. Q. You say that the marine inspector valued her at $4,500 gold. Who was that marine inspector?

A. If she was laid up in Chicago, I was the man.

X 2. Q. Were you the marine inspector who fixed her valuation as you say, at $4,500, gold?

A. If——

X 3. Q. You don't know that; do you?

A. No, sir; I could ascertain by looking over my memorandum of surveys. I couldn't say whether it was myself. It must have been Humphreys, of Milwaukee, or myself, because we had all this district of Lake Michigan.

X 4. Q. You can't say, then, that you were the marine inspector who fixed her valuation at $4,500, gold?

A. I can't say that I was the marine inspector that made the valuation.

X 5. Q. When did you make any personal examination of the Baensch, that is, examining her parts and condition?

A. It must have been 1866.

X 6. Q. What examination did you make of her?

A. Looked at her, so as to rate her.

X 7. Q. Did you go on board of her?

A. Yes, sir; I went on board of her.

X 8. Q. Did you go all over her?

A. I went all over her. I know that I went on board of her, and examined her once. She was unloading lumber between Van Buren
162 & Madison streets, on the east side of the river, in 1866.

X 9. Q. Isn't it the fact that marine inspectors, when they inspect them as you say they do, put the value of vessels below their real value?

A. No, sir; not at a cash valuation. That would at that time bring the vessel between $6,000 & $7,000.

X 10. Q. You have had your vessels inspected by marine inspectors, haven't you?

A. Yes, sir.

X 11. Q. Would you be willing to sell your vessels at the valuation fixed by marine inspectors?

A. No, sir.

X 12. Q. In any case?

A. In some cases.

X 13. Q. Don't they generally fix their valuations just as tax assessors do, below their real value? Isn't that a fact?

(Objected to.)

A. They generally insure for more than the marine inspector's valuations are?

X 14. Q. And they insure generally for less than their market value, do they not?

A. Not in all cases; no, sir.

X 15. Q. Don't they generally?

A. In some cases.

X 16. Q. Do you say that if you had owned the Baensch, that
163 you would have sold her in the season of 1866, for $6,000 or $7,000?

A. At the time that I inspected her?

X 17. Q. Yes, sir.

A. Yes, sir.

X 18. Q. This was in the winter—wasn't it—of 1866?

A. It was in the spring of 1866, between January and April.

X 19. Q. Didn't vessels rise after that that year in valuation?

A. Vessels were worth more in the fall of 1866 than they were in the spring of 1866.

Re-direct examination by M. Mitchell:

R'd 1. Q. You said you find the value of the Baensch at from $6,000 to $7,000 in currency, as I understood, in the spring?

A. Yes, sir.

R'd 2. Q. Between that and the first of September, what would you say as to her valuation—about the first of September? Was she worth more than $7,000 at that time?

(Objected to as going over the same ground and cross-examining his own witness.)

164 A. She would have been worth more at that time than she was in the spring. Vessels increased in value in 1866. Freights were very high that year.

R'd. 3 Q. You said from $6,000 to $7,000 in the spring. Would you say she was worth over $7,000, about the first of September?

(Objected to as leading and incompetent for the reasons above stated.)

A. That depends on the vessel's condition, some.

X 4 Q. If you don't know, that answers the question; but if you can answer it I wish you would?

A. She was worth fully that and perhaps a little more.

X 5 Q. Then you fix the valuation somewhere about $7,000, the first of September?

(Objected to as emphatically leading.)

A. The valuation in September—I would have to see the vessel at that time to know what condition the vessel was in.

Signatures to the above deposition waived by counsel.

(Endorsed:) Filed July 6, '70. W'm H. Bradley c'l'k.

165 On this day, to wit, the sixth day of July, in the July term, A. D 1870, of said circuit court in the record of the proceedings thereof in said entitled cause is the following entry, to wit:

Cause heard.

ELISHA B. DEAN & JOEL V. TAYLOR, } *vs.* } Appeal.
THE PROPELLER DEAN RICHMOND. }

Now come the parties by their attorneys, and thereupon this cause is set down for hearing upon the record from the district court, and the proof filed herein, and after hearing the arguments of counsel the court, not being sufficiently advised in the premises, takes time to consider.

On this day, to wit, the 13th day of July, in the July term, A. D. 1870, of said court, in the record of the proceedings thereof in said entitled cause, is the following entry, to wit:

Decree.

ELISHA B. DEAN & JOEL V. TAYLOR, } *vs.* } Appeal.
THE PROPELLER DEAN RICHMOND. }

166 The court having concluded, and being now fully advised upon the matters heretofore submitted herein, affirms the decree of the

district court herein, and it appearing from the record in this cause that a decree was rendered in the district court on the nineteenth day of July, A. D. eighteen hundred and sixty-nine, in favor of the libelants herein for the sum of four thousand and seventy dollars, and in favor of the Mutual Insurance Company of Buffalo, which had been in part subrogated to the rights of the libelants the sum of six thousand nine hundred and thirty dollars, together with costs.

It is thereupon ordered, adjudged, and decreed by the court that the said respondent pay to the libelant herein the said sum of four thou-
167 sand and seventy dollars, and to the said Mutual Insurance Company of Buffalo the said sum of six thousand nine hundred and thirty dollars, making in all the sum of eleven thousand dollars to be paid by said respondent, together with the costs herein to be taxed and also the costs in the district court.

And it is further ordered that a summary judgment be, and the same is hereby, accordingly entered against Nathan C. Winslow as principal and H. J. Winslow, Henry C. Winslow, and W. M. Egan as sureties, in the sum of twenty-two thousand dollars, being the amount of the stipulation given on the appeal from the decree of the district court; and it is further ordered by the court that unless said decree for damages and costs shall not be paid within ten days, execution may issue against the respondent and her stipulators therefor to the marshal of said district for the sum of twenty-two thousand dollars, the amount of said stipulation to be discharged and satisfied upon the marshal making
168 thereon the decree for damages and costs.

On this day, to wit, the 15th day of July in the July term, A. D. 1870, of said court, in the record of the proceedings thereof in said entitled cause, is the following entry, to wit:

Appeal prayed.

ELISHA B. DEAN & JOEL V. TAYLOR,
vs.
THE PROPELLER DEAN RICHMOND. } Appeal.

Now comes the respondent by its attorney, who prays an appeal to the Supreme Court, which is allowed upon the respondent entering into bond herein in the sum of twenty-two thousand dollars.

169 On this day, to wit, the 23d day of July, A. D. 1870, came Nathan C. Winslow and Hezekiah J. Winslow, by their proctors, and filed in said clerk's office their bond on appeal in said entitled cause, which said bond is in the words and figures following, to wit:

Appeal bond.

Circuit court of the United States of America, northern district of Illinois, in the seventh district.

THE PROPELLER DEAN RICHMOND, NATHANIEL C. Winslow, claimant & appellant,
vs.
ELISHA B. DEAN AND JOEL TAYLOR, APPELLEES.

Know all men by these presents that we, Nathan C. Winslow and

Hezekiah J. Winslow, of the city of Buffalo, in the State of New York, and Wiley M. Egan, of the city of Chicago, in the State of Illinois, are held and firmly bound unto the above-named Elisha B. Dean and Joel Taylor in the sum of twenty-two thousand dollars, to be paid to
170 said appellees; for the payment of which, well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated the eighteenth day of July, A. D. 1870.

Whereas the above-named appellant has prosecuted an appeal to the Supreme Court of the United States at the city of Washington, in the District of Columbia, to reverse the decree rendered in the above suit by the circuit court of the United States for the northern district of Illinois: Now, therefore, the condition of this obligation is such that if the above-named appellant shall prosecute his appeal to effect and answer all damages and costs if he fail to make his appeal good, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

N. C. WINSLOW. [SEAL.]
HEZEKIAH J. WINSLOW. [SEAL.]
WILEY M. EGAN. [SEAL.]

Sealed and delivered and taken and acknowledged, this 18th
171 day of July, A. D. 1870, before me.

ROB. RAE,
U. S. Com'r.

NORTHERN DISTRICT OF NEW YORK, *ss:*

On the 21st day of July, 1870, at Buffalo, in said district, personally appeared before me, Nathan C. Winslow, to me known to be the same person described in, & who executed the above instrument, & he acknoweldged the execution of the same.

[SEAL.] M. P. FILLMORE,
U. S. Commissioner.

UNITED STATES OF AMERICA,
Northern District of Illinois.

Wiley M. Egan, being duly sworn deposes and says that he is worth the sum of twenty-two thousand dollars over and above all his just debts.

W. M. EGAN.

Sworn to this 18th day of July, A. D. 1870, before me.

ROB. RAE,
U. S. Com'r.

We approve the above bond and the sufficiency of the surety thereto, July 22d, 1870.

WAITE & CLARKE,
Proctors for Appellees.

172 It is hereby stipulated that the appellant may have ten days' further time to file the within bond.
July 19th, 1870.

WAITE & CLARKE.

Approved.

THOMAS DRUMMOND.

(Endorsed:) Filed July 23d, 1870. W'm H. Bradley, cl'k.

173 NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the circuit court of the United States for the said district, do hereby certify the above and foregoing to be a true, correct, and complete transcript of the record of all the proceedings had in said court in said entitled cause wherein said Elisha B. Dean and Joel V. Taylor are libelants, and the propeller Dean Richmond is respondent, as the same remains of record in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said circuit court, at my office in the city of Chicago, in said district, this third day of December, A. D. eighteen hundred and seventy, and of our independence the ninety-fifth year.

[SEAL.] W'M H. BRADLEY,
Clerk.

[5-c't int. rev. stamp, affixed and canceled.]

(Indorsement on cover:) No. 394. The propeller "Dean Richmond, Nathaniel C. Winslow, claimant, appellant, vs. Elisha B. Dean and Joel V. Taylor. N. Illinois C. C. U. S. Filed 13th December, 1870.